

1 AMENDMENT TO HOUSE BILL 5557

2 AMENDMENT NO. _____. Amend House Bill 5557, AS AMENDED,
3 with reference to the page and line numbers of House
4 Amendment No. 1, on page 1, in line 13, after "25b-5,", by
5 inserting "28.5,"; and

6 on page 163, below line 12, by inserting the following:

7 "(415 ILCS 5/28.5) (from Ch. 111 1/2, par. 1028.5)
8 (Section scheduled to be repealed on December 31, 2002.)
9 Sec. 28.5. Clean Air Act rules; fast-track.

10 (a) This Section shall apply solely to the adoption of
11 rules proposed by the Agency and required to be adopted by
12 the State under the Clean Air Act as amended by the Clean Air
13 Act Amendments of 1990 (CAAA).

14 (b) This Section is repealed on December 31, 2007 2002.

15 (c) For purposes of this Section, a "fast-track"
16 rulemaking proceeding is a proceeding to promulgate a rule
17 that the CAAA requires to be adopted. For purposes of this
18 Section, "requires to be adopted" refers only to those
19 regulations or parts of regulations for which the United
20 States Environmental Protection Agency is empowered to impose
21 sanctions against the State for failure to adopt such rules.
22 All fast-track rules must be adopted under procedures set

1 forth in this Section, unless another provision of this Act
2 specifies the method for adopting a specific rule.

3 (d) When the CAAA requires rules other than identical in
4 substance rules to be adopted, upon request by the Agency,
5 the Board shall adopt rules under fast-track rulemaking
6 requirements.

7 (e) The Agency shall submit its fast-track rulemaking
8 proposal in the following form:

9 (1) The Agency shall file the rule in a form that
10 meets the requirements of the Illinois Administrative
11 Procedure Act and regulations promulgated thereunder.

12 (2) The cover sheet of the proposal shall
13 prominently state that the rule is being proposed under
14 this Section.

15 (3) The proposal shall clearly identify the
16 provisions and portions of the federal statute,
17 regulations, guidance, policy statement, or other
18 documents upon which the rule is based.

19 (4) The supporting documentation for the rule shall
20 summarize the basis of the rule.

21 (5) The Agency shall describe in general the
22 alternative selected and the basis for the alternative.

23 (6) The Agency shall file a summary of economic and
24 technical data upon which it relied in drafting the rule.

25 (7) The Agency shall provide a list of any
26 documents upon which it directly relied in drafting the
27 rule or upon which it intends to rely at the hearings and
28 shall provide such documents to the Board. Additionally,
29 the Agency shall make such documents available at an
30 appropriate location for inspection and copying at the
31 expense of the interested party.

32 (8) The Agency shall include in its submission a
33 description of the geographical area to which the rule is
34 intended to apply, a description of the process or

1 processes affected, an identification by classes of the
2 entities expected to be affected, and a list of sources
3 expected to be affected by the rule to the extent known
4 to the Agency.

5 (f) Within 14 days of receipt of the proposal, the Board
6 shall file the rule for first notice under the Illinois
7 Administrative Procedure Act and shall schedule all required
8 hearings on the proposal and cause public notice to be given
9 in accordance with the Illinois Administrative Procedure Act
10 and the CAAA.

11 (g) The Board shall set 3 hearings on the proposal, each
12 of which shall be scheduled to continue from day to day,
13 excluding weekends and State and federal holidays, until
14 completed. The Board shall require the written submission of
15 all testimony at least 10 days before a hearing, with
16 simultaneous service to all participants of record in the
17 proceeding as of 15 days prior to hearing, unless a waiver is
18 granted by the Board for good cause. In order to further
19 expedite the hearings, presubmitted testimony shall be
20 accepted into the record without the reading of the testimony
21 at hearing, provided that the witness swears to the testimony
22 and is available for questioning, and the Board shall make
23 every effort to conduct the proceedings expeditiously and
24 avoid duplication and extraneous material.

25 (1) The first hearing shall be held within 55 days
26 of receipt of the rule and shall be confined to testimony
27 by and questions of the Agency's witnesses concerning the
28 scope, applicability, and basis of the rule. Within 7
29 days after the first hearing, any person may request that
30 the second hearing be held.

31 (A) If, after the first hearing, the Agency
32 and affected entities are in agreement on the rule,
33 the United States Environmental Protection Agency
34 has not informed the Board of any unresolved

1 objection to the rule, and no other interested party
2 contests the rule or asks for the opportunity to
3 present additional evidence, the Board may cancel
4 the additional hearings. When the Board adopts the
5 final order under these circumstances, it shall be
6 based on the Agency's proposal as agreed to by the
7 parties.

8 (B) If, after the first hearing, the Agency
9 and affected entities are in agreement upon a
10 portion of the rule, the United States Environmental
11 Protection Agency has not informed the Board of any
12 unresolved objections to that agreed portion of the
13 rule, and no other interested party contests that
14 agreed portion of the rule or asks for the
15 opportunity to present additional evidence, the
16 Board shall proceed to the second hearing, as
17 provided in paragraph (2) of subsection (g) of this
18 Section, but the hearing shall be limited in scope
19 to the unresolved portion of the proposal. When the
20 Board adopts the final order under these
21 circumstances, it shall be based on such portion of
22 the Agency's proposal as agreed to by the parties.

23 (2) The second hearing shall be scheduled to
24 commence within 30 days of the first day of the first
25 hearing and shall be devoted to presentation of
26 testimony, documents, and comments by affected entities
27 and all other interested parties.

28 (3) The third hearing shall be scheduled to
29 commence within 14 days after the first day of the second
30 hearing and shall be devoted solely to any Agency
31 response to the material submitted at the second hearing
32 and to any response by other parties. The third hearing
33 shall be cancelled if the Agency indicates to the Board
34 that it does not intend to introduce any additional

1 material.

2 (h) In any fast-track rulemaking proceeding, the Board
3 shall accept evidence and comments on the economic impact of
4 any provision of the rule and shall consider the economic
5 impact of the rule based on the record. The Board may order
6 an economic impact study in a manner that will not prevent
7 adoption of the rule within the time required by subsection
8 (o) of this Section.

9 (i) In all fast-track rulemakings under this Section,
10 the Board shall take into account factors set forth in
11 subsection (a) of Section 27 of this Act.

12 (j) The Board shall adopt rules in the fast-track
13 rulemaking docket under the requirements of this Section that
14 the CAAA requires to be adopted, and may consider a
15 non-required rule in a second docket that shall proceed under
16 Title VII of this Act.

17 (k) The Board is directed to take whatever measures are
18 available to it to complete fast-track rulemaking as
19 expeditiously as possible consistent with the need for
20 careful consideration. These measures shall include, but not
21 be limited to, having hearings transcribed on an expedited
22 basis.

23 (l) Following the hearings, the Board shall close the
24 record 14 days after the availability of the transcript.

25 (m) The Board shall not revise or otherwise change an
26 Agency fast-track rulemaking proposal without agreement of
27 the Agency until after the end of the hearing and comment
28 period. Any revisions to an Agency proposal shall be based
29 on the record of the proceeding.

30 (n) All rules adopted by the Board under this Section
31 shall be based solely on the record before it.

32 (o) The Board shall complete a fast-track rulemaking by
33 adopting a second notice order no later than 130 days after
34 receipt of the proposal if no third hearing is held and no

1 later than 150 days if the third hearing is held. If the
2 order includes a rule, the Illinois Board shall file the rule
3 for second notice under the Illinois Administrative Procedure
4 Act within 5 days after adoption of the order.

5 (p) Upon receipt of a statement of no objection to the
6 rule from the Joint Committee on Administrative Rules, the
7 Board shall adopt the final order and submit the rule to the
8 Secretary of State for publication and certification within
9 21 days.

10 (Source: P.A. 90-265, eff. 7-30-97.)".