

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

In the matter of: )  
 )  
Procedural Rule Amendments: ) R17-18  
Proposed Amendments to 35 Ill. ) (Rulemaking – Procedural)  
Adm. Code 101 through 130. )

**NOTICE OF FILING**

**TO: SEE ATTACHED SERVICE LIST**

PLEASE TAKE NOTICE that on March 23, 2017, the undersigned electronically filed with the Illinois Pollution Control Board in the above-captioned matter its Comments by Illinois Attorney General’s Office, a true and correct copy of which is attached and hereby served upon you.

Respectfully submitted,

By: /s Jamie Getz  
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Chicago, Illinois 60602  
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March 23, 2017

**CERTIFICATE OF SERVICE**

I, Jamie D. Getz, an Assistant Attorney General, certify that on the 23<sup>rd</sup> day of March, 2017, I caused to be served by email to parties on the attached Service List the Comments by the Illinois Attorney General's Office.

Respectfully submitted,

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**Service List**

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**COMMENTS BY ILLINOIS ATTORNEY GENERAL’S OFFICE**

The Environmental Enforcement Division of the Illinois Attorney General’s Office (“AGO”) respectfully offers the following comments on the Illinois Pollution Control Board’s (“Board”) January 19, 2017 First Notice Rulemaking in R17-18.

**1. Initial service of documents to AGO via email**

The Board has requested comments from the AGO regarding a proposed amendment to the Board’s procedural rules. Specifically, the Board asked “whether there is a way for... the Attorney General’s Office to provide an email address for the initial service of documents under Section 101.304(g)(1), even before an attorney files an appearance.” (R17-18 First Notice, January 19, 2017, p. 2).

The AGO has the capability of creating and monitoring an email account for the receipt of the initial service of documents under Section 101.304(g)(1). The email address can be monitored by an attorney or other AGO staff member. At this time, no such account exists. An account can be created upon the promulgation of a final rule, or potentially upon an earlier request from the Board, if the email address is needed to be included in the rule prior to promulgation.

Alternatively, the Board could maintain a list of email addresses on its website for the agencies listed in Section 101.304(g)(1) and issue a rule requiring the party effectuating service to reference this list to determine the appropriate email address. This way, the Board would not need to undergo a formal rulemaking each time a State agency, such as the AGO, wishes to change its email address and/or contact person.

**2. Sanctioning**

Proposed Section 101.303(l) provides that documents not meeting the requirements of 35 Ill. Adm. Code Subtitle A (which includes Proposed Section 101.1030(g)) may be rejected by the Clerk or hearing officer. The AGO is concerned about the potential rejection of agency record filings for clerical errors, including mistakes in page numbering, discrepancies regarding the level of detail required for indexing, etc. Similarly, proposed amendments to Section 105.118 (Sanctions for Untimely Filing of the Record) provide that the Board may sanction a State agency if it “fails to prepare the record in accordance with this Part...”. The AGO requests that Sections 101.303(l) and 105.118 include provisions that allow for refileing a record within a certain period of time upon receipt of a rejection by the Board’s clerk or hearing officer, in order to obviate the need for sanctioning in cases of clerical errors or other errors that are easily remedied by the filer.

Respectfully submitted,

MATTHEW J. DUNN, Chief  
Environmental Enforcement Division  
Illinois Attorney General’s Office

ELIZABETH WALLACE, Chief  
Environmental Bureau  
Assistant Attorney General

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