

Comparing:
Agency Proposed vs. JCAR r01

[Different first page setting changed from on in original to off in modified.]

~~ILLINOIS REGISTER~~

JCAR350101-2505681r01

~~POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT~~

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
101.111	Informal Recordings of Board Meetings
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

Section	
101.200	Definitions in the Act
101.202	Definitions for Board's Procedural Rules

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents from Another Proceeding
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section	
101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory

[Different first page setting changed from on in original to off in modified.]

**POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT**

	Proceedings
101.402	Intervention of Parties
101.403	Joinder of Parties
101.404	Agency as a Party in Interest
101.406	Consolidation of Claims
101.408	Severance of Claims

SUBPART E: MOTIONS

Section	
101.500	Filing of Motions and Responses
101.502	Motions Directed to the Hearing Officer
101.504	Contents of Motions and Responses
101.506	Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
101.508	Motions to Board Preliminary to Hearing
101.510	Motions to Cancel Hearing
101.512	Motions for Expedited Review
101.514	Motions to Stay Proceedings
101.516	Motions for Summary Judgment
101.518	Motions for Interlocutory Appeal from Hearing Officer Orders
101.520	Motions for Reconsideration
101.522	Motions for Extension of Time

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section	
101.600	Hearings
101.602	Notice of Board Hearings
101.604	Formal Board Transcript
101.606	Informal Recordings of the Proceedings
101.608	Default
101.610	Duties and Authority of the Hearing Officer
101.612	Schedule to Complete the Record
101.614	Production of Information
101.616	Discovery
101.618	Admissions
101.620	Interrogatories
101.622	Subpoenas and Depositions
101.624	Examination of Adverse, Hostile, or Unwilling Witnesses
101.626	Information Produced at Hearing

~~POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT~~

- 101.627 Electronic Filing of Hearing Exhibits After Adjudicatory or TLWQS Hearing
- 101.628 Statements from Participants
- 101.630 Official Notice and Evidence Evaluation
- 101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

- Section
- 101.700 Oral Argument

SUBPART H: SANCTIONS

- Section
- 101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders
- 101.802 Abuse of Discovery Procedures

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

- Section
- 101.902 Motions for Reconsideration
- 101.904 Relief from Final Opinions and Orders
- 101.906 Judicial Review of Board Orders
- 101.908 Interlocutory Appeal

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

- Section
- 101.1000 Electronic Filing and E-Mail Service
- 101.1010 Electronic Filing Authorization and Signatures
- 101.1020 Filing Electronic Documents
- 101.1030 Form of Electronic Documents for Filing
- 101.1040 Filing Fees
- 101.1050 Documents Required in Paper or Excluded from Electronic Filing
- 101.1060 E-Mail Service
- 101.1070 Consenting to Receipt of E-Mail Service

- 101.APPENDIX A Captions
 - 101.ILLUSTRATION A Enforcement Case
 - 101.ILLUSTRATION B Citizen's Enforcement Case

[Different first page setting changed from on in original to off in modified.]

~~ILLINOIS REGISTER~~

JCAR350101-2505681r01

**POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT**

101.ILLUSTRATION C	Variance
101.ILLUSTRATION D	Adjusted Standard Petition
101.ILLUSTRATION E	Joint Petition for an Adjusted Standard
101.ILLUSTRATION F	Permit Appeal
101.ILLUSTRATION G	Underground Storage Tank Appeal
101.ILLUSTRATION H	Pollution Control Facility Siting Appeal
101.ILLUSTRATION I	Administrative Citation
101.ILLUSTRATION J	Administrative Citation Under Section 23.1 of the Public Water Supply Operations Act
101.ILLUSTRATION K	General Rulemaking
101.ILLUSTRATION L	Site-specific Rulemaking
101.APPENDIX B	Appearance Form
101.APPENDIX C	Withdrawal of Appearance Form
101.APPENDIX D	Notice of Filing
101.APPENDIX E	Affidavit or Certificate of Service
101.ILLUSTRATION A	Service by Non-Attorney
101.ILLUSTRATION B	Service by Attorney
101.APPENDIX F	Notice of Withdrawal (Repealed)
101.APPENDIX G	Comparison of Former and Current Rules (Repealed)
101.APPENDIX H	Affidavit or Certificate of E-Mail Service
101.ILLUSTRATION A	E-Mail Service by Non-Attorney
101.ILLUSTRATION B	E-Mail Service by Attorney
101.APPENDIX I	Consent to Receipt of E-Mail Service

AUTHORITY: Implementing Sections of the Environmental Protection Act [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act (Repealed by P.A. 102-38).

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in

[Different first page setting changed from on in original to off in modified.]

**POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT**

R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. 9674, effective August 22, 2019; amended in R19-1 at 44 Ill. Reg. 14867, effective September 4, 2020; amended in R25-23 at 49 Ill. Reg. _____, effective _____.

**SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES**

Section 101.304 Service of Documents

- a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.
- b) Duty to Serve and When to Initiate Service. A party filing a document with the Clerk under Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing.
 - 1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.
 - 2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).
 - 3) The date on which service of a document is considered to have been completed is determined under Section 101.300(c).
 - 4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.
 - 5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal jurisdiction, any challenge to service must be made under Section 101.400(a)(5).

**POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT**

- c) Methods of Service. A document must be served in one of the following ways:
 - 1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:
 - A) Personal service;
 - B) U.S. Mail;
 - C) Third-party commercial carrier;
 - D) E-mail in compliance with Subpart J; and
 - E) Facsimile, but only if the party being served has filed a notice consenting to receipt of facsimile service and not filed a notice revoking that consent.
 - 2) Service of enforcement complaints and EMSA statements of deficiency upon respondents must be made by:
 - A) Personal service;
 - B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
 - C) A third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.
 - 3) Service of administrative citations must be made as required under 35 Ill. Adm. Code 108.
- d) Documentation of Service and When to File Documentation of Service. A party serving a document upon another party must also file documentation of that service. A proceeding is subject to dismissal, and the filing party is subject to sanctions, if documentation of service is not timely filed with the Clerk. Documenting service and filing that documentation must be done as follows:
 - 1) For personal service of a document, either an affidavit or certificate of service signed by the person who made personal delivery or a declaration

~~POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT~~

of service signed by the process server who made personal delivery must accompany the document being filed with the Clerk. However, if the signed affidavit, certificate, or declaration is not available to the filing party when the document is filed with the Clerk, the filing must include:

- ~~A)~~ A) An affidavit or certificate of service, signed by the filing party, stating that service has been initiated, but not yet completed, and providing the following: the date, the time by when, and the place the document was provided to the person making personal delivery; the address appearing on the envelope or package containing the document; and a statement that the delivery charge was prepaid; and
 - B) Within seven days after it becomes available to the filing party, the affidavit or certificate of service containing the signature of the person who made personal delivery or the declaration of service containing the signature of the process server, accompanied by a notice identifying the filed document to which the signed affidavit, certificate, or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served under subsection (a).
- 2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document is filed with the Clerk, the filing must include:
- A) An affidavit or certificate of service, signed by the filing party, stating that service has been initiated, but not yet completed, and providing the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and a statement that the proper postage or the delivery charge was prepaid; and
 - B) Within seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature,

**~~POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT~~**

accompanied by a notice identifying the filed document to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served under subsection (a).

- 3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date and time of the facsimile transmission, the telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.
 - 4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
 - 5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.
 - 6) A certificate of service must bear an attorney's signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.
- e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in compliance with this Section.

**POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT**

- f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants must serve comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.
- g) Service on Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in compliance with Section 101.1070, consented to e-mail service.
 - 1) Service on the Illinois Environmental Protection Agency. The Agency must be served at the

Division of Legal Counsel
[the address of the Illinois EPA's headquarters as designated on the Illinois EPA's website] ~~epa.dlc@illinois.gov~~
epa.dlc@illinois.gov
 - 2) Service on Office of State Fire Marshal. The OSFM must be served at:

Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703
 - 3) Service on the Illinois Attorney General. The Office of the Attorney General must be served at:

Division Chief of Environmental Enforcement
Office of the Attorney General
100 West Randolph St., Suite 1200
Chicago IL 60601
enviro@atg.state.il.us
 - 4) Service on the Illinois Department of Natural Resources. DNR must be served at:

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

[Different first page setting changed from on in original to off in modified.]

~~ILLINOIS REGISTER~~

JCAR350101-2505681r01

**~~POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENT~~**

- 5) Service on the Illinois Department of Transportation. IDOT must be served at:

Office of Chief Counsel
DOT Administration Building
2300 S. Dirksen Parkway, Room 300
Springfield IL 62764

- 6) Service on Region V of the United States Environmental Protection Agency. USEPA Region V must be served at:

USEPA, Region V
77 West Jackson
Chicago IL 60604

(Source: Amended at 49 Ill. Reg. _____, effective _____)

[Different first page setting changed from on in original to off in modified.]

Summary report: Litera Compare for Word 11.8.0.56 Document comparison done on 4/23/2025 10:11:29 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: 35-101RG-P Agency.docx	
Modified filename: 35-101RG-P r01 (49-17).docx	
Changes:	
<u>Add</u>	6
Delete	9
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	15