



OFFICE OF THE SECRETARY OF STATE

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February 1, 2013

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CLERK'S OFFICE

FEB 07 2013

STATE OF ILLINOIS  
Pollution Control Board

POLLUTION CONTROL BOARD  
JOHN THERRIAULT ASSISTANT CLERK  
100 W RANDOLPH ST, STE 11-500  
CHICAGO, IL 60601

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 37, Issue 6 of the Illinois Register, dated 2/8/2013.

ADOPTED RULES

General Rules

35 Ill. Adm. Code 101

Point of Contact: Nancy Miller

1655 R13-9

Definitions and General Provisions

35 Ill. Adm. Code 211

Point of Contact: Nancy Miller

1662 R12-24

Organic Material Emission Standards and Limitations

35 Ill. Adm. Code 215

Point of Contact: Nancy Miller

1683

Organic Material Emissions Standards and Limitations for the Chicago Area

35 Ill. Adm. Code 218

Point of Contact: Nancy Miller

1699

Organic Material Emissions Standards and Limitations for the Metro East Area

35 Ill. Adm. Code 219

Point of Contact: Nancy Miller

1722

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

## ILLINOIS REGISTER

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Numbers: 101.108                      Adopted Action: Amend
- 4) Statutory Authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2, and 27].
- 5) Effective Date of Amendment: JAN 28 2013
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? Yes.
- 8) The text of the adopted amendment is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: October 12, 2012; 36 Ill. Reg. 14971.
- 10) Has JCAR issued a Statement of Objections to this amendment? No.
- 11) Differences between proposal and final version: There are no substantive changes between the proposed amendment and the final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will this amendment replace emergency amendments currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Amendment: A more complete description of this proposal may be found in the Board's opinion and order of January 24, 2012 in docket R13-09. In brief, the proposal rule conforms the Board's procedural rules to a statutory change.

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NOTICE OF ADOPTED AMENDMENT

35 Ill. Adm. Code 101.108(d), effective January 1, 2000, currently provides that “4 affirmative votes are required to adopt a Board decision.” This was consistent with Section 5 of the Act, which provided for a 7 member Board. *See* P.A. 83-770, eff. Sept. 24, 1983. The Board’s membership was reduced to 5 in P. A. 93-509, eff. Aug. 11, 2003, amending Section 5(a) of the Act to read in pertinent part:

If there is no vacancy on the Board, 4 members of the Board shall constitute a quorum to transact business; otherwise, a majority of the Board shall constitute a quorum to transact business, and no vacancy shall impair the right of the remaining members to exercise all of the powers of the Board. *Every action approved by a majority of the members of the Board shall be deemed to be the action of the Board.* The Board shall keep a complete and accurate record of all its meetings. 415 ILCS 105/5(a) at para. 12. (2010)(emphasis added)

The Board had not previously amended Section 101.108(d) of the procedural rules, as it has viewed the simple 3 member majority requirement of amended Section 5 of the Act as “trumping” the outdated 4 member majority requirement contained in the pre-existing, unamended rules. As a recent vacancy on the Board ~~has~~ created potential for public confusion, the Board believes it prudent to update the rule.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Kathleen Crowley  
Illinois Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

312-814-6929  
Kathleen.Crowley@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R13-09 in your request. The Board order is also available from the Board’s Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

The full text of the Adopted Amendment begins on the next page:

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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED 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
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

Section	
101.200	Definitions Contained 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 by Reference
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 Proceedings

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- 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
- 101.628 Statements from Participants

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NOTICE OF ADOPTED AMENDMENT

- 101.630 Official Notice
- 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 and Review of Final Opinions and Orders
- 101.906 Judicial Review of Board Orders
- 101.908 Interlocutory Appeal

- 101.APPENDIX A Captions
  - 101.ILLUSTRATION A Enforcement Case
  - 101.ILLUSTRATION B Citizen's Enforcement Case
  - 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 General Rulemaking
  - 101.ILLUSTRATION K Site-specific Rulemaking
- 101.APPENDIX B Appearance Form
- 101.APPENDIX C Withdrawal of Appearance Form
- 101.APPENDIX D Notice of Filing
- 101.APPENDIX E Certificate of Service
  - 101.ILLUSTRATION A Service by Non-Attorney

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101.ILLUSTRATION B	Service by Attorney
101.ILLUSTRATION B	Service by Attorney
101.APPENDIX F	Notice of Withdrawal (Repealed)
101.APPENDIX G	Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 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 of the Environmental Protection Act (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].

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. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 101.108 Board Proceedings**

- a) Board proceedings can generally be divided into two categories: rulemaking proceedings and adjudicatory proceedings.
- b) The following are examples of Board rulemaking proceedings: Identical-in-Substance, Clean Air Act/Fast Track, Federally Required Rulemaking, General Rulemaking, and Site-Specific Rulemaking. Procedural rules for these types of proceedings can be found at 35 Ill. Adm. Code 102.
- c) The following are examples of Board adjudicatory proceedings: Enforcement Proceedings (35 Ill. Adm. Code 103), Variance Petitions (35 Ill. Adm. Code 104), Adjusted Standard Petitions (35 Ill. Adm. Code 104), Permit Appeals (35 Ill. Adm. Code 105), Leaking Underground Storage Tank Appeals (35 Ill. Adm. Code 105), Pollution Control Facility Siting Appeals (35 Ill. Adm. Code 107), and Administrative Citations (35 Ill. Adm. Code 108).

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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- d) Board decisions will be made at meetings open to the public. Except as provided in subsection (e) of this Section, 4 members of the Board constitute a quorum, and 34 affirmative votes are required to adopt a Board decision.
  
- e) At a hearing pursuant to Section 34(d) of the Act to determine whether a seal should be removed, *at least one Board Member shall be present, and those Board Members present may render a final decision without regard to the requirements of Section 5(a) of the Act* [415 ILCS 5/34(d)].

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)