

POLLUTION CONTROL BOARD  
NOTICE OF PROPOSED AMENDMENT

R10-22

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JUN 28 2010

STATE OF ILLINOIS  
Pollution Control Board

- 1) Heading of the Part: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Number: 101.304                      Proposed Action:  
Amend
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 10, 26 and 28 of the Environmental Protection Act [415 ILCS 5/10, 26, and 28]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal will amend the Illinois Attorney General's mailing address and the Illinois Department of Natural Resources mailing address to be used for service of documents filed with the Illinois Pollution Control Board.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2008)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R10-22 and be addressed to:

John Therriault  
Clerk's Office  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

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Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For more information, contact hearing officer Marie Tipsord at 312/814-4925 or email at [tipsorm@ipcb.state.il.us](mailto:tipsorm@ipcb.state.il.us).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipalities, and not-for-profit will have to use the new address when serving documents on the Illinois Attorney General's Office and the Illinois Department of Natural Resources.
  - B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendment may require some minor bookkeeping issues such as changing the address in their computer database and/or Microsoft Outlook mail folder.
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of two most recent regulatory agendas: The Board had not anticipated a request to change the addresses in the Board's procedural rules.

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

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

210-22

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

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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  
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  
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
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. \_\_\_\_\_, 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. Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Proof of service of initial filings must be filed with the Board upon completion of service.
- c) Method of Service. Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or as prescribed in Section 101.302(d), except for service of enforcement complaints and administrative citations which must be made personally, by registered or certified mail, or by messenger service. Proof of service of enforcement complaints and administrative citations must be filed with the Board upon completion of service.
- d) Affidavit or Certificate of Service. A proceeding is subject to dismissal, and parties are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Proof of proper service is the responsibility of the party filing and serving the document. An affidavit of service or certificate of service must accompany all filings of all parties. A sample form of the affidavit of service and certificate of service is available at the Board's Offices (the locations of the Board's Offices are

listed at 2 Ill. Adm. Code 2175.115) and may be obtained electronically at the Board's Web site.

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 accordance with this Section.

f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants are required to serve their 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 State Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board.

1) Service on the Illinois Environmental Protection Agency (Agency). The Agency must be served at the following address:

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

2) Service on Office of State Fire Marshal (OSFM). 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  
~~188 West Randolph St., 20th Floor~~  
100 West Randolph St., Suite 1200  
Chicago, IL 60601

4) Service on the Illinois Department of Natural Resources (DNR) must be served at:

Office of Legal Services  
Illinois Department of Natural Resources  
~~524 S. Second St.~~  
One Natural Resources Way  
Springfield, ~~IL 62701-1787~~ IL 62702-1271

5) Service on the Illinois Department of Transportation (IDOT). 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). USEPA Region V must be served at:

USEPA, Region V

77 West Jackson  
Chicago, IL 60604

(Source: Amended at 34 Ill. Reg. = \_\_\_\_\_, effective \_\_\_\_\_)  
~~ILLINOIS REGISTER~~

JCAR350101-1008500r01

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Format changed	0
Total changes	17



# 1<sup>ST</sup> NOTICE VERSION

JCAR350101-1008500r01

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE A: GENERAL PROVISIONS  
3 CHAPTER I: POLLUTION CONTROL BOARD  
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125 AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40,  
126 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26,  
127 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26  
128 and 27 of the Act [415 ILCS 5/26 and 27].

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

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140 OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

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182

183 Division of Legal Counsel  
184 Illinois Environmental Protection Agency  
185 1021 North Grand Avenue East  
186 P.O. Box 19276  
187 Springfield, IL 62794-9276  
188

189 2) Service on Office of State Fire Marshal (OSFM). The OSFM must be  
190 served at:  
191

192 Division of Petroleum and Chemical Safety  
193 Office of the State Fire Marshal  
194 1035 Stevenson Dr.  
195 Springfield, IL 62703  
196

197 3) Service on the Illinois Attorney General. The Office of the Attorney  
198 General must be served at:  
199

200 Division Chief of Environmental Enforcement  
201 Office of the Attorney General  
202 100 West Randolph St., Suite 1200  
203 ~~188 West Randolph St., 20<sup>th</sup> Floor~~  
204 Chicago, IL 60601  
205

206 4) Service on the Illinois Department of Natural Resources (DNR) must be  
207 served at:  
208

209 Office of Legal Services  
210 Illinois Department of Natural Resources  
211 One Natural Resources Way  
212 ~~524 S. Second St.~~  
213 Springfield, IL ~~62702-1271~~62701-1787  
214

215 5) Service on the Illinois Department of Transportation (IDOT). IDOT must

216 be served at:  
217  
218 Office of Chief Counsel  
219 DOT Administration Building  
220 2300 S. Dirksen Parkway, Room 300  
221 Springfield, IL 62764  
222  
223 6) Service on Region V of the United States Environmental Protection  
224 Agency (USEPA). USEPA Region V must be served at:  
225  
226 USEPA, Region V  
227 77 West Jackson  
228 Chicago, IL 60604  
229  
230 (Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)