



## OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

R10-18

August 13, 2010

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CLERK'S OFFICE

AUG 19 2010

**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 34, Issue 34 of the Illinois Register, dated 8/20/2010.

**ADOPTED RULES**

Regulatory and Informational Hearings and Proceedings  
35 Ill. Adm. Code 102  
Point of Contact: Nancy Miller

12193

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Regulatory And Informational Hearings And Proceedings
- 2) Code Citation: 35 Ill. Adm. Code 102
- 3) Section Numbers:      Adopted Action:  
102.412                      Amend
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28].
- 5) Effective Date of Amendment:      **AUG - 9 2010**
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) The adopted amendment is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
February 16, 2010; 34 Ill. Reg. 2422
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: The procedural rule amendment proposed for final notice is unchanged from first notice, other than to reflect a change in citation form requested by the Joint Committee on Administrative Rules (JCAR).
- 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 detailed description of this rulemaking is contained in the Board's opinion and order in Proposed Amendment To Procedural Rules On Hearings In Identical In Substances Rulemakings R10-18 (August 5, 2010). The

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proposed amendment allows videoconference hearings to be held in rulemaking proceedings conducted pursuant to Section 7.2 of the Environmental Protection Act (Act) (415 ILCS 5/7.2 (2008)). Rules adopted by the Board under Section 7.2 of the Act are identical-in-substance to federal regulations.

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

Marie Tipsord  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312-814-4925

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 R10-18 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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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARD

PART 102  
REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

Section	
102.100	Applicability
102.102	Severability
102.104	Definitions
102.106	Types of Regulatory Proposals
102.108	Public Comments
102.110	Waiver of Requirements
102.112	Other Proceedings

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY, RESOURCE  
CONSERVATION AND RECOVERY ACT (RCRA) AMENDMENTS, AND SITE-SPECIFIC  
REGULATIONS

Section	
102.200	Proposal for Regulations of General Applicability
102.202	Proposal Contents for Regulations of General Applicability
102. 204	Proposal of RCRA Amendments
102.206	Notice of Site-Specific RCRA Proposals
102.208	Proposal for Site-Specific Regulations
102.210	Proposal Contents for Site-Specific Regulations
102.212	Proposal to Update Incorporations by Reference
102.214	Dismissal

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA) FAST TRACK RULEMAKING

Section	
102.300	Applicability
102.302	Agency Proposal
102.304	Hearings
102.306	Prefiled Testimony

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SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS, PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING CONFERENCES, AND HEARINGS

Section

102.400	Service and Filing of Documents
102.402	Motions, Production of Information, and Subpoenas
102.404	Initiation and Scheduling of Prehearing Conferences
102.406	Purpose of Prehearing Conference
102.408	Prehearing Order
102.410	Authorization of Hearing
102.412	Scheduling of Hearings
102.414	Hearings on the Economic Impact of New Proposals
102.416	Notice of Hearing
102.418	Record
102.420	Authority of the Hearing Officer
102.422	Notice and Service Lists
102.424	Prehearing Submission of Testimony and Exhibits
102.426	Admissible Information
102.428	Presentation of Testimony and Order of Hearing
102.430	Questioning of Witnesses

SUBPART E: CERTIFICATION OF REQUIRED RULES

Section

102.500	Agency Certification
102.502	Challenge to Agency Certification
102.504	Board Determination

SUBPART F: BOARD ACTION

Section

102.600	Revision of Proposed Regulations
102.602	Adoption of Regulations
102.604	First Notice of Proposed Regulations
102.606	Second Notice of Proposed Regulations
102.608	Notice of Board Final Action
102.610	Adoption of Identical-in-Substance Regulation
102.612	Adoption of Emergency Regulations
102.614	Adoption of Peremptory Regulations

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SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

Section	
102.700	Filing of Motions for Reconsideration
102.702	Disposition of Motions for Reconsideration
102.704	Correction of Publication Errors
102.706	Appeal

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section	
102.800	Applicability
102.802	Petition
102.804	Petition Contents
102.806	Board Action
102.APPENDIX A	Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 28.6, 29 and 41 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 27, 28, 28.2, 28.6, 29 and 41] and authorized by Sections 26 and 27 of the Act [415 ILCS5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part II: Regulatory and Other Nonadjudicative Hearings and Proceedings, in R70-4, 1 PCB 43, October 8, 197-; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1398, effective January 16, 1984; Part repealed, new Part adopted in R88-5(B) at 14 Ill. Reg. 9210, effective May 24, 1990; amended in R90-16 at 14 Ill. Reg. 20471, effective December 11, 1990; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 587, effective January 1, 2001; amended in R01-13 at 26 Ill. Reg. 3498, effective February 22, 2002; amended in R04-24 at 29 Ill. Reg. 8776, effective June 8, 2005; amended in R10-18 at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS, PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING CONFERENCES, AND HEARINGS

**Section 102.412 Scheduling of Hearings**

- a) Except as otherwise provided by applicable law, *no substantive regulation shall be adopted, amended, or repealed until after a public hearing within the area of the State concerned.* In the case of site-specific rules, a public hearing will be held in the affected county. Except as otherwise provided by applicable law, in

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*the case of state-wide regulations, hearings shall be held in at least two areas.*  
[415 ILCS 5/28(a)]

- b) If the proponent or any participant wishes to request a hearing beyond the number of hearings specified by the hearing officer, that person must demonstrate, in a motion to the hearing officer, that failing to hold an additional hearing would result in material prejudice to the movant. The motion may be oral, if made at hearing or written. The movant must show that he exercised due diligence in his participation in the proceeding and why an addition hearing, as opposed to the submission of written comments pursuant to Section 102.108 of this Part, is necessary.
- c) If a hearing is scheduled in a rulemaking proposed pursuant to Section 7.2 of the Act [415 ILCS 5/7.2], the hearing may be held by videoconference.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)