



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

December 13, 2010

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

RECEIVED
CLERK'S OFFICE
DEC 14 2010
STATE OF ILLINOIS
Pollution Control Board

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 34, Issue 51 of the Illinois Register, dated 12/17/2010.

ADOPTED RULES

General Rules

35 Ill. Adm. Code 101

Point of Contact: Marie Tipsord

19566

R10-22

Permits and General Provisions

35 Ill. Adm. Code 201

Point of Contact: Kathleen Crowley

19575

R10-21

REGULATORY AGENDA

General Rules

Point of Contact: John Therriault

19623

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

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Numbers: Adopted Action:
101.304 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: DEC - 3 2010
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment 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:
July 2, 2010; 34 Ill. Reg. 8500
- 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 minor grammatical changes 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 the Matter of: Revision of Mailing Address or Service of Documents Proposed Amendment to 35 Ill. Adm. Code 101.304.

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R10-22 (December 2, 2010). The adopted amendment will update 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.

- 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 R10-22 in your request. The Board order is also available from the Board's Web site (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 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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- 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.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

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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:

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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 62702-1271 ~~62701-1787~~

- 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 _____)