

SECOND NOTICE CHANGES

Agency: Pollution Control Board

Rulemaking: Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106; 36 Ill. Reg. 9924)

Changes:

1. In line 169, strike "and".
2. In line 173, after "101" add a comma.
3. In line 268, after "references" add a comma.
4. In lines 366-367, delete "[415 ILCS 5/21(g)]".

11/11/12



RECEIVED
CLERK'S OFFICE

NOV 16 2012

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
106.100 Applicability
106.102 Severability
106.104 Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS

Section
106.200 General
106.202 Petition Requirements
106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
106.206 Notice
106.208 Recommendation and Response
106.210 Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section
106.300 General
106.302 Initiation of Proceeding
106.304 Petition Content Requirements
106.306 Response and Reply
106.308 Hearing
106.310 Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT
PERMIT PROGRAM (CAAPP) PERMITS

Section
106.400 General

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

106.402	Definitions
106.404	Initiation of Proceedings
106.406	Petition Content Requirements
106.408	Response and Reply
106.410	Hearing
106.412	Burden of Proof
106.414	Opinion and Order
106.416	USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

Section	
106.500	General
106.502	Definitions
106.504	Initiation of Proceedings
106.506	Petition Content Requirements
106.508	Response and Reply
106.510	Hearing
106.512	Burden of Proof
106.514	Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

Section	
106.600	General
106.602	Initiation of Proceedings
106.604	Petition Content Requirements
106.606	Response and Reply
106.608	Hearing
106.610	Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

Section	
106.700	Purpose
106.702	Applicability
106.704	Termination Under Section 52.3-4(b) or (b-5) of the Act

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

106.706	Who May Initiate, Parties
106.707	Notice, Statement of Deficiency, Answer
106.708	Service
106.710	Notice of Hearing
106.712	Deficient Performance
106.714	Board Decision
106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

Section	
106.800	General
106.802	Definitions
106.804	Initiation of Proceeding
106.806	Petition Content Requirements
106.808	Response and Reply
106.810	Hearing
106.812	Burden of Proof

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

<u>Section</u>	
<u>106.900</u>	<u>General</u>
<u>106.902</u>	<u>Initiation of Proceeding</u>
<u>106.904</u>	<u>Petition Content Requirements</u>
<u>106.906</u>	<u>Petition Notice Requirements</u>
<u>106.908</u>	<u>Proof of Petition Notice Requirements</u>

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

<u>106.910</u>	<u>Response and Reply</u>
<u>106.912</u>	<u>Hearing</u>
<u>106.914</u>	<u>Burden of Proof</u>

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Section

106.1000	General
106.1002	Definitions
106.1004	Initiation of Proceeding
106.1006	Petition Content Requirements
106.1008	Response and Reply
106.1010	Burden of Proof
106.1012	Board Decision

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5] and Section 95 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 17, 2012; amended in R12-11 at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 106.100 Applicability

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, the involuntary termination of environmental management system agreements, authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS 92], and temporary landfill ban waivers under the Electronic Products Recycling and Reuse Act [415 ILCS 150], and authorizations for certain landscape waste and compost applications and on-farm composting facilities.
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

Section 106.900 General

- a) Applicability. This Subpart applies to any person who files a petition for Board authorization concerning an individual site to:
 - 1) apply landscape waste or composted landscape waste at a rate greater than the agronomic rates of 20 tons per acre per year, pursuant to Section 21(q) and (q)(2) of the Act; or
 - 2) operate an on-farm composting facility constituting more than 2% of the property's total acreage, pursuant to Section 21(q)(3) of the Act.
- b) Demonstration. Any person who files a petition for Board authorization under this Subpart must demonstrate *that the site's soil characteristics or crop needs require a higher rate.* [415 ILCS 5/21(q) and (q)(3)(A)]

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- c) Parties. The person filing the petition for authorization must be named the petitioner and the Agency must be named the respondent.
- d) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C will apply to the proceedings under this Subpart.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.902 Initiation of Proceeding

The petitioner must file the petition for authorization with the Clerk of the Board and must serve one copy upon the Agency.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.904 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, concerning the property for which authorization is sought, outlining a description of the specific percentage of the property or the specific application rate sought and the duration of, the reasons for, and the basis for the authorization sought, consistent with the burden of proof stated in Section 106.914;
- b) The nature of the petitioner's operations;
- c) Any other applicable information that may be required by Section 21(q) of the Act, including but not limited to a map of the location where land application or composting would take place; a description of the uses of the surrounding areas; the method for nutrient calculations; the soil sampling analysis for samples taken within one year prior to the filing of the petition in accordance with the sampling protocols of subsections (e) and (f); the intended crop or planting; a description of any additives to the landscape waste; the method for incorporating the landscape waste or compost into the soil; the maximum time between acceptance of landscape waste or compost and its incorporation into soil; the weather conditions under which incorporation will occur; the method of minimizing stormwater/snowmelt runoff; a screening plan to ensure materials accepted do not contain materials other than landscape waste; a contingency plan that describes methods for dealing with emergency situations and methods for the removal of

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

material that is not landscape waste from incoming loads; and the method of preventing nuisance conditions such as vectors, odors, litter or dust.

- d) For demonstrations under Section 106.914(a), a plan, including soil testing, in accordance with subsections (e) and (f) and no less than once every five years, to show when application of landscape waste or composted landscape waste at rates greater than an agronomic rate of 20 tons per acre per year will be, or will continue to be, beneficial to the site's soil characteristics or crop needs. Such a plan must specify any soil parameters to be analyzed, such as soil organic content and nutrients and any limits on them.
- e) Soil samples collected that will represent the entire landscape waste or composted landscape waste application site.
- 1) Soil Plow Zone – one soil sample shall be collected per 8 acres of application site area to a depth of 12 inches. Each soil sample taken shall be a homogeneous mixture composed of at least 10 subsamples randomly collected within the 8 acre area.
 - 2) Soil Profiles – one soil core sample per 8 acres of land application site shall be obtained to a depth of 5 feet using a soil tube or soil auger type implement. Soil cores shall be divided into 5 one foot subsamples and each subsample shall be analyzed separately.
 - 3) Soil sample collection pursuant to subsections (a) and (b) may be modified by the Board upon request by the petitioner after considering the application rate of the landscape waste or composted landscape waste and the continuity of soil types of the application site.
- f) Soil analysis performed in accordance with the following references, unless equivalent results can be obtained by other methods. The petitioner shall demonstrate that equivalent results are obtainable based on the nature of the test methodology, the nature of the parameter and the level of statistical accuracy.
- 1) Physical Testing Methods
Methods of Soil Analysis – Part 1, Physical and Mineralogical Properties (1986), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.
 - 2) Chemical Testing Methods

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Methods of Soil Analysis – Part 3, Chemical Methods (1996), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.

- 3) For the purposes of this Subpart I, the Board incorporates by reference the soil test methods listed in subsections (f)(1) and (f)(2). This incorporation includes no later amendments or editions.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.906 Petition Notice Requirements

- a) The petitioner shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the petitioner's activity that is the subject of the Section 21(q) petition.
- b) The title of the notice must be in the following form: "Notice of Petition For Authorization Under 415 ILCS 5/21(q) by (petitioner's name) before the Illinois Pollution Control Board". The notice must contain the name and address of the petitioner and the statement that the petitioner has filed with the Board an authorization petition under Section 21(q). The notice must also provide the date upon which the petition was filed, the Board docket number, the proposed authorization, a general description of the petitioner's activity that is the subject of the authorization proceeding and the location of the petitioner's activity. This information must be presented so as to be understood in accordance with the context of this Section's requirements. The concluding portion of the notice must read as follows: "Any person may cause a public hearing to be held in the above-described authorization proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should clearly indicate the docket number for the adjusted standard proceeding, as found in this notice, and must be mailed to the Clerk of the Board, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601."

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.908 Proof of Petition Notice Requirements

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Within 30 days after the filing of the petition, the petitioner must file a certificate of publication, issued by the publisher of the authorization petition notice certifying the publication of that notice. The certificate must be issued in accordance with Section 1 of the Notice by Publication Act [715 ILCS 5/1].

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.910 Response and Reply

- a) Within 45 days after the filing of a petition, the Agency may file a response to any petition in which it has not joined as co-petitioner. The response must include the comments concerning potential Board action on the petition.
- b) The petitioner may file a reply within 14 days after the service of any Agency response.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.912 Hearing

- a) Any person can request that a public hearing be held in an authorization proceeding. The requests must be filed not later than 21 days after the date of the publication of the petition notice in accordance with Section 106.906. Requests for hearing should make reference to the Board docket number assigned to the proceeding. A copy of each timely hearing request will be mailed to the petitioner and Agency by the Clerk of the Board. Participation by the public at the hearing must be in accordance with 35 Ill. Adm. Code 101.110 and 101.628. The Board may also, in its discretion, hold a public hearing when it determines a public hearing is advisable.
- b) When all parties and participants who have requested a hearing pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board, in its discretion, deems it advisable.
- c) The hearing officer will set a time and place for the hearing. The hearing officer will make an attempt to consult with the petitioner and the Agency prior to the scheduling of a hearing. Hearings are to be held in the county likely to be affected by the petitioner's activity that is the subject of the proposed authorization proceeding.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 106.914 Burden of Proof

The burden of proof is on the petitioner. A petitioner may seek authorization, for an individual site, to:

- a) Apply landscape waste or composted landscape waste at rates greater than "agronomic rates" of not more than 20 tons per acre per year. An owner or operator seeking to apply landscape waste or composted landscape waste in accordance with Section 21(q)(2) of the Act at rates greater than agronomic rates must demonstrate to the Board that the site's soil characteristics or crop needs require a higher rate as specified in the petition. [415 ILCS 5/21(q)]

- b) Increase in total acreage of on-farm composting facility. A farm owner or operator seeking to apply landscape waste or landscape waste compost in accordance with Section 21(q)(3)(A) of the Act at a *composting facility on which the composting material is utilized* and who proposes to do so on *more than 2% of the property's total acreage on which the composting material is utilized by the farmer, must demonstrate to the Board that the site's soil characteristics or crop needs require a higher rate as specified in the petition.*

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

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

RECEIVED
CLERK'S OFFICE
NOV 16 2012
STATE OF ILLINOIS
Pollution Control Board

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section

- 106.100 Applicability
- 106.102 Severability
- 106.104 Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS

Section

- 106.200 General
- 106.202 Petition Requirements
- 106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
- 106.206 Notice
- 106.208 Recommendation and Response
- 106.210 Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section

- 106.300 General
- 106.302 Initiation of Proceeding
- 106.304 Petition Content Requirements
- 106.306 Response and Reply
- 106.308 Hearing
- 106.310 Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT
PERMIT PROGRAM (CAAPP) PERMITS

Section

- 106.400 General
- 106.402 Definitions
- 106.404 Initiation of Proceedings
- 106.406 Petition Content Requirements

SUBTITLE A

- 106.408 Response and Reply
- 106.410 Hearing
- 106.412 Burden of Proof
- 106.414 Opinion and Order
- 106.416 USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

- Section
- 106.500 General
- 106.502 Definitions
- 106.504 Initiation of Proceedings
- 106.506 Petition Content Requirements
- 106.508 Response and Reply
- 106.510 Hearing
- 106.512 Burden of Proof
- 106.514 Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

- Section
- 106.600 General
- 106.602 Initiation of Proceedings
- 106.604 Petition Content Requirements
- 106.606 Response and Reply
- 106.608 Hearing
- 106.610 Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

- Section
- 106.700 Purpose
- 106.702 Applicability
- 106.704 Termination Under Section 52.3-4(b) or (b-5) of the Act
- 106.706 Who May Initiate, Parties
- 106.707 Notice, Statement of Deficiency, Answer
- 106.708 Service
- 106.710 Notice of Hearing
- 106.712 Deficient Performance
- 106.714 Board Decision

SUBTITLE A

106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

Section	
106.800	General
106.802	Definitions
106.804	Initiation of Proceeding
106.806	Petition Content Requirements
106.808	Response and Reply
106.810	Hearing
106.812	Burden of Proof

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

Section	
106.900	General
106.902	Initiation of Proceeding
106.904	Petition Content Requirements
106.906	Petition Notice Requirements
106.908	Proof of Petition Notice Requirements
106.910	Response and Reply
106.912	Hearing
106.914	Burden of Proof

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Section	
106.1000	General

SUBTITLE A

- 106.1002 Definitions
- 106.1004 Initiation of Proceeding
- 106.1006 Petition Content Requirements
- 106.1008 Response and Reply
- 106.1010 Burden of Proof
- 106.1012 Board Decision

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5] and Section 95 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 17, 2012; amended in R12-11 at 36 Ill. Reg. _____, effective _____.

SUBTITLE A

SUBPART A: GENERAL PROVISIONS

Section 106.100 Applicability

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, the involuntary termination of environmental management system agreements, authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS 92], and temporary landfill ban waivers under the Electronic Products Recycling and Reuse Act [415 ILCS 150].
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES**Section 106.900 General**

- a) Applicability. This Subpart applies to any person who files a petition for Board authorization concerning an individual site to:
 - 1) apply landscape waste or composted landscape waste at a rate greater than the agronomic rates of 20 tons per acre per year, pursuant to Section 21(q) and (q)(2) of the Act; or
 - 2) operate an on-farm composting facility constituting more than 2% of the property's total acreage, pursuant to Section 21(q)(3) of the Act.
- b) Demonstration. Any person who files a petition for Board authorization under this Subpart must demonstrate *that the site's soil characteristics or crop needs require a higher rate.* [415 ILCS 5/21(q) and (q)(3)(A)]
- c) Parties. The person filing the petition for authorization must be named the petitioner and the Agency must be named the respondent.
- d) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C will apply to the proceedings under this Subpart.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A**Section 106.902 Initiation of Proceeding**

The petitioner must file the petition for authorization with the Clerk of the Board and must serve one copy upon the Agency.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.904 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, concerning the property for which authorization is sought, outlining a description of the specific percentage of the property or the specific application rate sought and the duration of, the reasons for, and the basis for the authorization sought, consistent with the burden of proof stated in Section 106.914;
- b) The nature of the petitioner's operations;
- c) Any other applicable information that may be required by Section 21(q) of the Act, including but not limited to a map of the location where land application or composting would take place; a description of the uses of the surrounding areas; the method for nutrient calculations; the soil sampling analysis for samples taken within one year prior to the filing of the petition in accordance with the sampling protocols of subsections (e) and (f); the intended crop or planting; a description of any additives to the landscape waste; the method for incorporating the landscape waste or compost into the soil; the maximum time between acceptance of landscape waste or compost and its incorporation into soil; the weather conditions under which incorporation will occur; the method of minimizing stormwater/snowmelt runoff; a screening plan to ensure materials accepted do not contain materials other than landscape waste; a contingency plan that describes methods for dealing with emergency situations and methods for the removal of material that is not landscape waste from incoming loads; and the method of preventing nuisance conditions such as vectors, odors, litter or dust.
- d) For demonstrations under Section 106.914(a), a plan, including soil testing, in accordance with subsections (e) and (f) and no less than once every five years, to show when application of landscape waste or composted landscape waste at rates greater than an agronomic rate of 20 tons per acre per year will be, or will continue to be, beneficial to the site's soil characteristics or crop needs. Such a plan must specify any soil parameters to be analyzed, such as soil organic content and nutrients and any limits on them.
- e) Soil samples collected that will represent the entire landscape waste or composted landscape waste application site.
 - 1) Soil Plow Zone – one soil sample shall be collected per 8 acres of application site area to a depth of 12 inches. Each soil sample taken shall

SUBTITLE A

be a homogeneous mixture composed of at least 10 subsamples randomly collected within the 8 acre area.

- 2) Soil Profiles – one soil core sample per 8 acres of land application site shall be obtained to a depth of 5 feet using a soil tube or soil auger type implement. Soil cores shall be divided into 5 one foot subsamples and each subsample shall be analyzed separately.
 - 3) Soil sample collection pursuant to subsections (a) and (b) may be modified by the Board upon request by the petitioner after considering the application rate of the landscape waste or composted landscape waste and the continuity of soil types of the application site.
- f) Soil analysis performed in accordance with the following references, unless equivalent results can be obtained by other methods. The petitioner shall demonstrate that equivalent results are obtainable based on the nature of the test methodology, the nature of the parameter and the level of statistical accuracy.
- 1) Physical Testing Methods
Methods of Soil Analysis – Part 1, Physical and Mineralogical Properties (1986), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.
 - 2) Chemical Testing Methods
Methods of Soil Analysis – Part 3, Chemical Methods (1996), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.
 - 3) For the purposes of this Subpart I, the Board incorporates by reference the soil test methods listed in subsections (f)(1) and (f)(2). This incorporation includes no later amendments or editions.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.906 Petition Notice Requirements

- a) The petitioner shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the petitioner's activity that is the subject of the Section 21(q) petition.
- b) The title of the notice must be in the following form: "Notice of Petition For Authorization Under 415 ILCS 5/21(q) by (petitioner's name) before the Illinois Pollution Control Board". The notice must contain the name and address of the petitioner and the statement that the petitioner has filed with the Board an authorization petition under Section 21(q). The notice must also provide the date upon which the petition was filed, the Board docket number, the proposed authorization, a general description of the petitioner's activity that is the subject of the authorization proceeding and the location of the petitioner's activity. This information must be presented so as to be understood in accordance with the context of this Section's requirements. The concluding portion of the notice must read as follows: "Any person may cause a public hearing to be held in the above-described authorization proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should clearly indicate the docket number for the adjusted standard proceeding, as found in this notice, and must be mailed to the Clerk of the Board, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601."

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.908 Proof of Petition Notice Requirements

Within 30 days after the filing of the petition, the petitioner must file a certificate of publication, issued by the publisher of the authorization petition notice certifying the publication of that notice. The certificate must be issued in accordance with Section 1 of the Notice by Publication Act [715 ILCS 5/1].

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.910 Response and Reply

- a) Within 45 days after the filing of a petition, the Agency may file a response to any petition in which it has not joined as co-petitioner. The response must include the comments concerning potential Board action on the petition.
- b) The petitioner may file a reply within 14 days after the service of any Agency response.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.912 Hearing

- a) Any person can request that a public hearing be held in an authorization proceeding. The requests must be filed not later than 21 days after the date of the publication of the petition notice in accordance with Section 106.906. Requests for hearing should make reference to the Board docket number assigned to the proceeding. A copy of each timely hearing request will be mailed to the petitioner and Agency by the Clerk of the Board. Participation by the public at the hearing must be in accordance with 35 Ill. Adm. Code 101.110 and 101.628. The Board may also, in its discretion, hold a public hearing when it determines a public hearing is advisable.
- b) When all parties and participants who have requested a hearing pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board, in its discretion, deems it advisable.
- c) The hearing officer will set a time and place for the hearing. The hearing officer will make an attempt to consult with the petitioner and the Agency prior to the scheduling of a hearing. Hearings are to be held in the county likely to be affected by the petitioner's activity that is the subject of the proposed authorization proceeding.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBTITLE A

Section 106.914 Burden of Proof

The burden of proof is on the petitioner. A petitioner may seek authorization, for an individual site, to:

- a) Apply landscape waste or composted landscape waste at rates greater than "agronomic rates" of not *more than 20 tons per acre per year*. An owner or operator seeking to apply landscape waste or composted landscape waste in accordance with Section 21(q)(2) of the Act at rates greater than agronomic rates must *demonstrate to the Board that the site's soil characteristics or crop needs require a higher rate* as specified in the petition. [415 ILCS 5/21(q)]
- b) Increase in total acreage of on-farm composting facility. A farm owner or operator seeking to apply landscape waste or landscape waste compost in accordance with Section 21(q)(3)(A) of the Act at a *composting facility on which the composting material is utilized* and who proposes to do so on *more than 2% of the property's total acreage on which the composting material is utilized by the farmer*, must *demonstrate to the Board that the site's soil characteristics or crop needs require a higher rate* as specified in the petition.

(Source: Added at 36 Ill. Reg. _____, effective _____)