

ILLINOIS POLLUTION CONTROL BOARD

August 21, 2003

IN THE MATTER OF: )  
)  
AMENDMENTS TO THE BOARD'S ) R04-8  
PROCEDURAL RULES: 35 ILL. ADM. ) (Rulemaking - Procedural)  
CODE 101-130 )

ORDER OF THE BOARD (by T.E. Johnson):

Today the Board opens a new docket to propose amendments to its procedural rules. Among other things, the amendments will allow electronic filing in all Board proceedings through the Board's new Clerk's Office On-Line or "COOL," and reflect recent statutory changes. To avoid confusion, in a separate order today, the Board closes docket R03-10, in which the Board had proposed procedural rule changes. See Revision of the Board's Procedural Rules: 35 Ill. Adm. Code 101-130, R03-10, slip op. at 1 (Aug. 21, 2003). Changes originally proposed in docket R03-10 will now be taken up in this rulemaking, R04-8, as will other rule changes needed chiefly due to legislation signed into law only last month.

In R03-10, the Board on November 7, 2002, adopted its first-notice opinion and order, which may be viewed through COOL on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). The first-notice amendments appeared in the *Illinois Register* on December 2 and 6, 2002, proposing amendments to Parts 101-107, 125, and 130 of Title 35 of the Illinois Administrative Code. The Board held two public hearings on the proposed amendments and received public comment. Besides accommodating electronic filing and service, the rule changes proposed for first notice were aimed principally at reflecting amendments to the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 92-574, effective June 26, 2002, and to the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330, effective August 9, 2001. The Board incorporates the record of R03-10 into the record of this rulemaking.

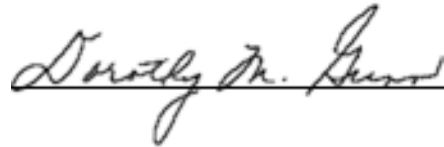
In addition to the changes first proposed in R03-10, this rulemaking (R04-8) will include proposed changes necessary to make the procedural rules consistent with new statutory provisions, primarily the amendments to the Environmental Protection Act in P.A. 93-152, effective July 10, 2003. These amendments include (1) having the Illinois Environmental Protection Agency rather than the Board issue provisional variances, (2) allowing the Board to adopt settlements in citizen enforcement actions *without* a public hearing, and (3) a new rulemaking procedure for updating incorporations by reference. P.A. 93-152 may found on the Board's Web site.

The changes to the Environmental Protection Act in P.A. 93-152, like those in P.A. 92-574, resulted from recommendations of the Illinois Environmental Regulatory Review Commission (IERRC). Created in December 1999 by Executive Order 18, the IERRC was charged with reviewing and recommending improvements to the Environmental Protection Act, which was originally enacted in 1970.

The Board plans to proceed expeditiously to first-notice publication of proposed procedural rule amendments in the *Illinois Register*, which will start a 45-day period during which anyone may file public comments with the Board. As discussed, though the Board is closing docket R03-10, the Board will now consider proposed amendments from that rulemaking in this newly-opened docket, R04-8. The Board therefore directs the Clerk to copy the R03-10 record and place it into the record of R04-8.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 21, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board