

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

**PART 106  
HEARINGS PURSUANT TO SPECIFIC RULES**

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APPENDIX A Old Rule Numbers Referenced

AUTHORITY: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5, 39.5 and 52.3 and authorized by Sections 26, 39.5 and 52.3 of the Environmental Protection Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5, 26, 39.5 and 52.3]

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; amended in \_\_\_\_\_ at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### Section 106.990 Applicability

The procedures set forth in this Subpart apply to any person seeking an Outstanding Resource Water “ORW” designation for a surface water or any segment thereof as provided by 35 Ill. Adm. Code 303.205. This Subpart shall be read in conjunction with 35 Ill. Adm. Code 102 that contains procedures generally applicable to regulatory and informational hearings and proceedings. In a proceeding held pursuant to this Subpart, the requirements of this Subpart shall apply in the event of conflict between the requirements of 35 Ill. Adm. Code 102 and those of this Subpart.

### Section 106.991 Definitions

For the purpose of this Subpart, words and terms shall have the meanings as defined in 35 Ill. Adm. Code 102.101, unless otherwise provided.

### Section 106.992 Petition

Any person may submit a written petition for the adoption, amendment or repeal of an ORW designation. The original and nine (9) copies of each petition shall be filed with the Clerk and one copy each served upon the Agency, Illinois Department of Natural Resources (IDNR), the Attorney General, the States Attorney of each county in which the waters or water segment runs, the Chairman of the County Board of each county in which the waters or water segment runs, to each member of the General Assembly from the legislative district in which the waters or water segment runs, to current NPDES permit holders and NPDES permit applicants, applicants for federally permitted activities that require a certification from the Agency pursuant to Section 401 of the Clean Water Act, and to other persons as required by law.

### Section 106.993 Publication

A person that submits a written petition for the adoption, amendment or repeal of an ORW designation shall, within 10 days after the petition is filed, publish notice of such petition in a newspaper of general circulation in the county or counties in which the effected water body flows.

### Section 106.994 Petition Contents

The petition must be captioned in accordance with 35 Ill. Adm. Code Section 101.ILLUSTRATION A General Rulemaking. The petition must contain headings corresponding to the informational requirements of each subsection of this Section. The following information shall be contained in the petition:

- a) The proponent shall identify the waters or water segment, which is to be addressed by the proposed amendment and the language to be added, deleted or repealed. Underscoring must indicate language being added and strikeouts must indicate language being deleted.
- b) A statement describing the specific surface water or segment thereof for which the ORW designation is requested and that waters' or segment's present designation;
- c) A statement describing the area in which the specific surface water or segment thereof exists including, but not limited to:
  - 1) the existence of wetlands or natural areas;
  - 2) the life contained within that area including endangered or threatened species of plants, aquatic life or wildlife listed pursuant to the Endangered Species Act, 16 USC 1531 et seq. or the Illinois Endangered Species Protection Act, 41 ILCS 10.
- d) A statement supporting the designation including, but not limited to, the health, environmental, recreational, aesthetic or economic benefits of the designation;
- e) A statement identifying the ORW designation's anticipated impact on economic and social development. This statement should be supported by current, verifiable information including, but not limited to:
  - 1) impacts on the regional economy;
  - 2) impacts on regional employment;
  - 3) impacts on the community;
  - 4) a comparison of the health and environmental impacts to the economic impact of an ORW designation;
- f) A statement describing the existing and anticipated uses of the specific surface water or segment thereof for which the ORW designation is requested;
- g) A statement describing the existing and anticipated quality of the specific surface water or segment thereof warranting the ORW designation;
- h) A synopsis of all testimony to be presented by the proponent at hearing;

- i) Copies of any material to be incorporated by reference within the proposed designation pursuant to Section 5-75 of the Administrative Procedures Act;
- j) Proof of service upon all persons required to be served pursuant to Section 106.942 of this Part and proof of publication required by Section 106.943 of this Part;
- k) Unless the proponent is the Agency, Illinois Department of Natural Resources or receives a waiver by the Board, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.160(a); and
- l) Where any information required by this Section is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

#### Section 106.995 Board Action

- a) Dismissal
  - 1) Failure of the proponent to satisfy the content requirements for petitions under this Subpart or failure to respond to Board requests for additional information will render a petition subject to dismissal for inadequacy.
  - 2) Failure of the proponent to pursue disposition of the petition in a timely manner will render a petition subject to dismissal. In making this determination, the Board shall consider factors including but not limited to, the history of the proceeding and the proponent's compliance with any Board or hearing officer orders.
  - 3) Any person may file a motion challenging the sufficiency of the petition pursuant to 35 Ill. Adm. Code 101.243.
  - 4) The Board shall dismiss a petition for inadequacy in cases in which the Board, after evaluating the petition, cannot determine the jurisdictional basis on which the petition is made. In all such cases, a statement informing the proponent of the Board's basis for dismissal will be made. Dismissal of the petition does not bar a proponent from re-submitting a petition in the absence of any deadline imposed by the Act or Board regulations.



b) Designation of ORW

A) The Board shall designate a water body or water body segment as an ORW and list it in Ill. Adm. Code 303.206 if it finds:

2) the water body or water body segment is of uniquely high biological or recreational quality; and

3) the benefits of protection of the water from future degradation outweigh the benefits of economic or social opportunities that will be lost if the water is designated as an ORW.