

# First Notice

JCAR350101-2505681r01

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

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AUTHORITY: Implementing Sections of the Environmental Protection 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by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act (Repealed by P.A. 102-38).

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 Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill.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 Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill.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. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. 9674, effective August 22, 2019; amended in R19-1 at 44 Ill. Reg. 14867, effective September 4, 2020; amended in R25-23 at 49 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 and When to Initiate Service. A party filing a document with the Clerk under Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing.
  - 1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.
  - 2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).
  - 3) The date on which service of a document is considered to have been completed is determined under Section 101.300(c).
  - 4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.
  - 5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal jurisdiction, any challenge to service must be made under Section 101.400(a)(5).
- c) Methods of Service. A document must be served in one of the following ways:
  - 1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:
    - A) Personal service;
    - B) U.S. Mail;
    - C) Third-party commercial carrier;
    - D) E-mail in compliance with Subpart J; and

- 215 E) Facsimile, but only if the party being served has filed a notice  
216 consenting to receipt of facsimile service and not filed a notice  
217 revoking that consent.  
218
- 219 2) Service of enforcement complaints and EMSA statements of deficiency  
220 upon respondents must be made by:  
221
- 222 A) Personal service;  
223
- 224 B) U.S. Mail with a recipient's signature recorded by the U.S. Postal  
225 Service upon delivery; or  
226
- 227 C) A third-party commercial carrier with a recipient's signature  
228 recorded by the third-party commercial carrier upon delivery.  
229
- 230 3) Service of administrative citations must be made as required under 35 Ill.  
231 Adm. Code 108.  
232
- 233 d) Documentation of Service and When to File Documentation of Service. A party  
234 serving a document upon another party must also file documentation of that  
235 service. A proceeding is subject to dismissal, and the filing party is subject to  
236 sanctions, if documentation of service is not timely filed with the Clerk.  
237 Documenting service and filing that documentation must be done as follows:  
238
- 239 1) For personal service of a document, either an affidavit or certificate of  
240 service signed by the person who made personal delivery or a declaration  
241 of service signed by the process server who made personal delivery must  
242 accompany the document being filed with the Clerk. However, if the  
243 signed affidavit, certificate, or declaration is not available to the filing  
244 party when the document is filed with the Clerk, the filing must include:  
245
- 246 A) An affidavit or certificate of service, signed by the filing party,  
247 stating that service has been initiated, but not yet completed, and  
248 providing the following: the date, the time by when, and the place  
249 the document was provided to the person making personal  
250 delivery; the address appearing on the envelope or package  
251 containing the document; and a statement that the delivery charge  
252 was prepaid; and  
253
- 254 B) Within seven days after it becomes available to the filing party, the  
255 affidavit or certificate of service containing the signature of the  
256 person who made personal delivery or the declaration of service  
257 containing the signature of the process server, accompanied by a

notice identifying the filed document to which the signed affidavit, certificate, or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served under subsection (a).

2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document is filed with the Clerk, the filing must include:

A) An affidavit or certificate of service, signed by the filing party, stating that service has been initiated, but not yet completed, and providing the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and a statement that the proper postage or the delivery charge was prepaid; and

B) Within seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature, accompanied by a notice identifying the filed document to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served under subsection (a).

3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date and time of the facsimile transmission, the telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.

4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the

envelope or package containing the document; and that proper postage or the delivery charge was prepaid.

5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.

6) A certificate of service must bear an attorney's signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.

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 compliance with this Section.

f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants must serve 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 Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in compliance with Section 101.1070, consented to e-mail service.

1) Service on the Illinois Environmental Protection Agency. The Agency must be served at [the](#):

Division of Legal Counsel

[\[the address of the Illinois EPA's headquarters as designated on the Illinois EPA's website\]](#)

~~Illinois Environmental Protection Agency~~

~~1021 North Grand Avenue East~~

~~P.O. Box 19276~~

~~Springfield IL 62794-9276~~

epa.dlc@illinois.gov

2) Service on Office of State Fire Marshal. 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:

Division Chief of Environmental Enforcement  
Office of the Attorney General  
100 West Randolph St., Suite 1200  
Chicago IL 60601  
enviro@atg.state.il.us

- 4) Service on the Illinois Department of Natural Resources. DNR must be served at:

Office of Legal Services  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

- 5) Service on the Illinois Department of Transportation. 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 Region V must be served at:

USEPA, Region V  
77 West Jackson  
Chicago IL 60604

(Source: Amended at 49 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)