

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Number: 101.202                      Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 3.330, 26, 27, and 28 of the Environmental Protection Act (Act) [415 ILCS 5/3.330, 26, 27, and 28] and authorized by Sections 26, 27, and 28 of the Act [415 ILCS 5/26, 27, and 28]
- 5) A Complete Description of the Subjects and Issues Involved: The Board is proposing amendments to the definition of "pollution control facility" in Section 101.202 of its procedural rules only to the extent necessary to make it consistent with recent Public Acts amending the statutory definition.
- 6) Published studies or reports and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

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STATE OF ILLINOIS  
Pollution Control Board

John Therriault  
Clerk's Office  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

## POLLUTION CONTROL BOARD

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Interested persons may request copies of the Board's opinion and order in R12-22 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). For more information, contact hearing officer Tim Fox at 312/814-6065 or e-mail [FoxT@ipcb.state.il.us](mailto:FoxT@ipcb.state.il.us).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: As the proposal only make the definition of "pollution control facility" consistent with recent statutory amendments, it is expected to have no new effect on small businesses, small municipalities, or not-for-profit corporations.
  - B) Reporting, bookkeeping or other procedures required for compliance: As the proposal only make the definition of "pollution control facility" consistent with recent statutory amendments, no reporting, bookkeeping, or similar procedures are required for compliance.
  - C) Types of Professional skills necessary for compliance: As the proposal only make the definition of "pollution control facility" consistent with recent statutory amendments, no professional skills beyond those currently required by the rule are expected to be necessary for compliance.
- 14) Regulatory Agenda in which this rulemaking was summarized: The proposed amendment intends only to make the definition of "pollution control facility" in the Board's procedural rules consistent with Public Acts amending Section 3.330 of the Environmental Protection Act, the most recent of which became effective on January 1, 2012.

The full text of the Proposed Amendment begins on the next page:

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE A: GENERAL PROVISIONS  
3 CHAPTER I: POLLUTION CONTROL BOARD  
4

5 PART 101  
6 GENERAL RULES  
7

8 SUBPART A: GENERAL PROVISIONS  
9

10	Section	
11	101.100	Applicability
12	101.102	Severability
13	101.104	Repeals
14	101.106	Board Authority
15	101.108	Board Proceedings
16	101.110	Public Participation
17	101.112	Bias and Conflict of Interest
18	101.114	Ex Parte Communications

19  
20 SUBPART B: DEFINITIONS  
21

22	Section	
23	101.200	Definitions Contained in the Act
24	101.202	Definitions for Board's Procedural Rules

25  
26 SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
27 OF DOCUMENTS, AND STATUTORY DECISION DEADLINES  
28

29	Section	
30	101.300	Computation of Time
31	101.302	Filing of Documents
32	101.304	Service of Documents
33	101.306	Incorporation of Documents by Reference
34	101.308	Statutory Decision Deadlines and Waiver of Deadlines

35  
36 SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION  
37

38	Section	
39	101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory 40 Proceedings
41	101.402	Intervention of Parties
42	101.403	Joinder of Parties
43	101.404	Agency as a Party in Interest

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44 101.406 Consolidation of Claims  
45 101.408 Severance of Claims

46  
47 SUBPART E: MOTIONS  
48

49 Section  
50 101.500 Filing of Motions and Responses  
51 101.502 Motions Directed to the Hearing Officer  
52 101.504 Contents of Motions and Responses  
53 101.506 Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading  
54 101.508 Motions to Board Preliminary to Hearing  
55 101.510 Motions to Cancel Hearing  
56 101.512 Motions for Expedited Review  
57 101.514 Motions to Stay Proceedings  
58 101.516 Motions for Summary Judgment  
59 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders  
60 101.520 Motions for Reconsideration  
61 101.522 Motions for Extension of Time

62  
63 SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY  
64

65 Section  
66 101.600 Hearings  
67 101.602 Notice of Board Hearings  
68 101.604 Formal Board Transcript  
69 101.606 Informal Recordings of the Proceedings  
70 101.608 Default  
71 101.610 Duties and Authority of the Hearing Officer  
72 101.612 Schedule to Complete the Record  
73 101.614 Production of Information  
74 101.616 Discovery  
75 101.618 Admissions  
76 101.620 Interrogatories  
77 101.622 Subpoenas and Depositions  
78 101.624 Examination of Adverse, Hostile or Unwilling Witnesses  
79 101.626 Information Produced at Hearing  
80 101.628 Statements from Participants  
81 101.630 Official Notice  
82 101.632 Viewing of Premises

83  
84 SUBPART G: ORAL ARGUMENT  
85

86 Section

87 101.700 Oral Argument

88

89 SUBPART H: SANCTIONS

90

91 Section

92 101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing  
93 Officer Orders

94 101.802 Abuse of Discovery Procedures

95

96 SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

97

98 Section

99 101.902 Motions for Reconsideration

100 101.904 Relief from and Review of Final Opinions and Orders

101 101.906 Judicial Review of Board Orders

102 101.908 Interlocutory Appeal

103

104 101.APPENDIX A Captions

105 101.ILLUSTRATION A Enforcement Case

106 101.ILLUSTRATION B Citizen's Enforcement Case

107 101.ILLUSTRATION C Variance

108 101.ILLUSTRATION D Adjusted Standard Petition

109 101.ILLUSTRATION E Joint Petition for an Adjusted Standard

110 101.ILLUSTRATION F Permit Appeal

111 101.ILLUSTRATION G Underground Storage Tank Appeal

112 101.ILLUSTRATION H Pollution Control Facility Siting Appeal

113 101.ILLUSTRATION I Administrative Citation

114 101.ILLUSTRATION J General Rulemaking

115 101.ILLUSTRATION K Site-specific Rulemaking

116 101.APPENDIX B Appearance Form

117 101.APPENDIX C Withdrawal of Appearance Form

118 101.APPENDIX D Notice of Filing

119 101.APPENDIX E Certificate of Service

120 101.ILLUSTRATION A Service by Non-Attorney

121 101.ILLUSTRATION B Service by Attorney

122 101.APPENDIX F Notice of Withdrawal (Repealed)

123 101.APPENDIX G Comparison of Former and Current Rules (Repealed)

124

125 AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40,  
126 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26,  
127 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26  
128 and 27 of the Act [415 ILCS 5/26 and 27].

129

130 SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part  
131 repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in  
132 R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg.  
133 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill.  
134 Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8,  
135 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-  
136 17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566,  
137 effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

138  
139 **SUBPART B: DEFINITIONS**

140  
141 **Section 101.202 Definitions for Board's Procedural Rules**

142  
143 Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a  
144 word or term is clear from the context, the following definitions also apply to the Board's  
145 procedural rules, found in 35 Ill. Adm. Code 101 through 130:

146  
147 "Act" means the Environmental Protection Act [415 ILCS 5/1].

148  
149 "Adjudicatory proceeding" means an action of a quasi-judicial nature brought  
150 before the Board pursuant to authority granted to the Board under Section 5(d) of  
151 the Act or as otherwise provided by law. Adjudicatory proceedings include  
152 enforcement, variance, permit appeal, pollution control facility siting appeal,  
153 Underground Storage Tank (UST) Fund determination, water well set back  
154 exception, adjusted standard, and administrative citation proceedings.  
155 Adjudicatory proceedings do not include regulatory, quasi-legislative, or  
156 informational proceedings.

157  
158 "Adjusted standard" or "AS" means an alternative standard granted by the Board  
159 in an adjudicatory proceeding pursuant to Section 28.1 of the Act and 35 Ill. Adm.  
160 Code 104.Subpart D. The adjusted standard applies instead of the rule or  
161 regulation of general applicability.

162  
163 "Administrative citation" or "AC" means a citation issued pursuant to Section  
164 31.1 of the Act by the Agency, or by a unit of local government acting as the  
165 Agency's delegate pursuant to Section 4(r) of the Act.

166  
167 "Administrative citation review (appeal)" means a petition for review of an  
168 administrative citation filed pursuant to Section 31.1(d) of the Act. (See 35 Ill.  
169 Adm. Code 108.)

170  
171 "Affidavit" means a sworn, signed statement witnessed by a notary public.  
172

173 "Affidavit of service" means an affidavit that states that service of a document  
174 upon specified persons was made, and the manner in which, and date upon which,  
175 service was made.

176  
177 "Agency" means the Illinois Environmental Protection Agency as established by  
178 Section 4 of the Act.

179  
180 "Agency recommendation" means the document filed by the Agency pursuant to  
181 Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its  
182 recommended disposition of a petition for variance or an adjusted standard. This  
183 includes a recommendation to deny, or a recommendation to grant with or without  
184 conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

185  
186 "Amicus curiae brief" means a brief filed in a proceeding by any interested person  
187 who is not a party. (See Sections 101.110 and 101.628 of this Part.)

188  
189 "Applicant" means any person who submits, or has submitted, an application for a  
190 permit or for local siting approval pursuant to any of the authorities to issue  
191 permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of  
192 the Act.

193  
194 "Article" means *any object, material, device or substance, or whole or partial*  
195 *copy thereof, including any writing, record, document, recording, drawing,*  
196 *sample, specimen, prototype, model, photograph, culture, microorganism,*  
197 *blueprint or map* [415 ILCS 5/7.1].

198  
199 "Attorney General" means the Attorney General of the State of Illinois or  
200 representatives thereof.

201  
202 "Authorized representative" means any person who is authorized to act on behalf  
203 of another person.

204  
205 "Board" means the Illinois Pollution Control Board as created in Section 5 of the  
206 Act or, if applicable, its designee.

207  
208 "Board decision" means an opinion or an order voted in favor of by at least three  
209 members of the Board at an open Board meeting except in a proceeding to remove  
210 a seal under Section 34(d) of the Act.

211  
212 "Board designee" means an employee of the Board who has been given authority  
213 by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk  
214 of the Board, or hearing officer).

215

216 "Board meeting" means an open meeting held by the Board pursuant to Section  
217 5(a) of the Act in which the Board makes its decisions and determinations.  
218  
219 "Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm.  
220 Code 101 through 130.  
221  
222 "Brief" means a written statement that contains a summary of the facts of a  
223 proceeding, the pertinent laws, and an argument of how the law applies to the  
224 facts supporting a position.  
225  
226 "CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of  
227 the Act.  
228  
229 "Certificate of acceptance" means a certification, executed by a successful  
230 petitioner in a variance proceeding, in which the petitioner agrees to be bound by  
231 all terms and conditions that the Board has affixed to the grant of variance.  
232  
233 "Chairman" means the Chairman of the Board designated by the Governor  
234 pursuant to Section 5(a) of the Act.  
235  
236 "Citizen's enforcement proceeding" means an enforcement action brought before  
237 the Board pursuant to Section 31(d) of the Act by any person who is not  
238 authorized to bring the action on behalf of the People of the State of Illinois.  
239  
240 "Clean Air Act" or "CAA" means the federal *Clean Air Act, as now and hereafter*  
241 *amended, 42 USC 7401 et seq.* [415 ILCS 5/39.5]  
242  
243 "Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.  
244  
245 "Clerk" means the Clerk of the Board.  
246  
247 "Complaint" means the initial filing that begins an enforcement proceeding  
248 pursuant to Section 31 of the Act and 35 Ill. Adm. Code 103.  
249  
250 "Compliance plan" means a detailed description of a program designed to achieve  
251 compliance with the Act and Board regulations.  
252  
253 "Copy" means *any facsimile, replica, photograph or other reproduction of an*  
254 *article, and any note, drawing or sketch made of or from an article* [415 ILCS  
255 5/7.1].  
256  
257 "Counter-complaint" means a pleading that a respondent files setting forth a claim  
258 against a complainant. (See 35 Ill. Adm. Code 103.206.)



259  
260 "Cross-complaint" means a pleading that a party files setting forth a claim against  
261 a co-party. (See 35 Ill. Adm. Code 103.206.)  
262  
263 "Cross-media impacts" means impacts that concern multiple environmental areas,  
264 such as air, land and/or water.  
265  
266 "Decision date" means the Board meeting immediately preceding the decision  
267 deadline.  
268  
269 "Decision deadline" means the last day of any decision period, as established by  
270 law, within which the Board is required to render a decision in an adjudicatory  
271 proceeding. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1  
272 of the Act that establish 120-day decision deadlines for variances, permit appeals,  
273 and review of pollution control facility siting decisions respectively.)  
274  
275 "Decision period" means the period of time established by the Act within which  
276 the Board is required to make a Board decision in certain adjudicatory  
277 proceedings. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1  
278 of the Act that establish 120-day decision deadlines for variances, permit appeals,  
279 and review of pollution control facility siting decisions, respectively.)  
280  
281 "Deinked stock" *means paper that has been processed to remove inks, clays,*  
282 *coatings, binders and other contaminants [415 ILCS 20/2.1].*  
283  
284 "Delegated unit" means the unit of local government to which the Agency has  
285 delegated its administrative citation or other function pursuant to Section 4(r) of  
286 the Act.  
287  
288 "DNR" means the Illinois Department of Natural Resources.  
289  
290 "Discovery" means a pre-hearing process that can be used to obtain facts and  
291 information about the adjudicatory proceeding in order to prepare for hearing.  
292 The discovery tools include depositions upon oral and written questions, written  
293 interrogatories, production of documents or things, and requests for admission.  
294  
295 "DOA" means the Illinois Department of Agriculture.  
296  
297 "Duplicative" means the matter is identical or substantially similar to one brought  
298 before the Board or another forum.  
299  
300 "Environmental Management System Agreement" or "EMSA" means the  
301 agreement between the Agency and a sponsor, entered into under Section 52.3 of

302 the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental  
303 measures to be implemented, schedules to attain goals, and mechanisms for  
304 accountability.  
305

306 "Enforcement proceeding" means an adjudicatory proceeding brought upon a  
307 complaint filed pursuant to Section 31 of the Act by the Attorney General, State's  
308 Attorney, or other persons, in which the complaint alleges violation of the Act,  
309 any rule or regulation adopted under the Act, any permit or term or condition of a  
310 permit, or any Board order.

311 "Ex parte communication" means *any written or oral communication by any*  
312 *person that imparts or requests material information or makes a material*  
313 *argument regarding potential action concerning regulatory, quasi-adjudicatory,*  
314 *investment, or licensing matters pending before or under consideration by the*  
315 *Board. "Ex parte communication" does not include the following:*

316  
317  
318 *statements by a person publicly made in a public forum, including*  
319 *pleadings, transcripts, and public comments made part of the proceeding's*  
320 *record;*

321  
322 *statements regarding matters of procedure and practice, such as format,*  
323 *the number of copies required, the manner of filing, and the status of a*  
324 *matter; and*

325  
326 *statements made by a State employee of the Board to Board members or*  
327 *other employees of the Board. [5 ILCS 430/5-50(b)]. For purposes of this*  
328 *definition, "Board employee" means a person the Board employs on a full-*  
329 *time, part-time, contract or intern basis. (See Section 101.114 of this*  
330 *Part.)*

331  
332 "Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant  
333 to Section 28.5 of the Act.  
334

335 "Federally required rule" means *a rule that is needed to meet the requirements of*  
336 *the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including*  
337 *required submission of a State Implementation Plan), or Resource Conservation*  
338 *and Recovery Act, other than a rule required to be adopted under subsection (c)*  
339 *of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or*  
340 *subsection (a) of Section 22.40 [415 ILCS 5/28.2].*

341  
342 "Filing" means the act of delivering a document or article into the custody of the  
343 Clerk with the intention of incorporating that document or article into the record

344 of a proceeding before the Board. The Clerk's Office is located at 100 West  
345 Randolph Street, Suite 11-500, Chicago, IL 60601.

346  
347 "Final order" means an order of the Board that terminates the proceeding leaving  
348 nothing further to litigate or decide and that is appealable to an appellate court  
349 pursuant to Section 41 of the Act. (See Subpart I of this Part.)

350  
351 "Frivolous" means a request for relief that the Board does not have the authority  
352 to grant, or a complaint that fails to state a cause of action upon which the Board  
353 can grant relief.

354  
355 "Hearing" means a public proceeding conducted by a hearing officer where the  
356 parties and other interested persons, as provided for by law and the Board's  
357 procedural rules, present evidence and argument regarding their positions.

358  
359 "Hearing officer" means a person licensed to practice law in the State of Illinois  
360 who presides over hearings and otherwise carries out record development  
361 responsibilities as directed by the Board.

362  
363 "IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

364  
365 "Identical-in-substance rules ~~(or regulations)~~" or "identical-in-substance  
366 regulations" means *State regulations which require the same actions with respect*  
367 *to protection of the environment, by the same group of affected persons, as would*  
368 *federal regulations if USEPA administered the subject program in Illinois* [415  
369 ILCS 5/7.2].

370  
371 "Initial filing" means the filing that initiates a Board proceeding and opens a  
372 docket. For instance, the initial filing in an enforcement proceeding is the  
373 complaint; in a permit appeal it is a petition for review; and in a regulatory  
374 proceeding it is the proposal.

375  
376 "Innovative environmental measures" means any procedures, practices,  
377 technologies or systems that pertain to environmental management and are  
378 expected to improve environmental performance when applied. (See 35 Ill. Adm.  
379 Code 106.Subpart G.)

380  
381 "Inquiry hearing" means a hearing conducted by the Board for the purpose of  
382 seeking input and comment from the public regarding the need for a rulemaking  
383 proceeding in a specific area.

384  
385 "Interlocutory appeal" means an appeal of a Board decision to the appellate court  
386 that is not dispositive of all the contested issues in the proceeding. (See Section

387 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing  
388 officer ruling to the Board. (See Section 101.518 of this Part.)

389  
390 "Intervenor" means a person, not originally a party to an adjudicatory proceeding,  
391 who voluntarily participates as a party in the proceeding with the leave of the  
392 Board. (See Section 101.402 of this Part.)

393  
394 "Intervention" means the procedure by which a person, not originally a party to an  
395 adjudicatory proceeding, voluntarily comes into the proceeding as a party with the  
396 leave of the Board. (See Section 101.402 of this Part.)

397  
398 "JCAR" means the Illinois General Assembly's Joint Committee on  
399 Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

400  
401 "Joinder" means the procedure by which the Board adds a person, not originally a  
402 party to an adjudicatory proceeding, as a party to the proceeding. (See Section  
403 101.403 of this Part and 35 Ill. Adm. Code 103.206.)

404  
405 "Misnomer" means a mistake in name, giving an incorrect name in a complaint or  
406 other document with respect to any properly included party.

407  
408 "Motion" means a request made to the Board or the hearing officer for the  
409 purposes of obtaining a ruling or order directing or allowing some act to be done  
410 in favor of the movant. (See definition of "movant" in this Section.)

411  
412 "Movant" means the person who files a motion.

413  
414 "New pollution control facility" means *a pollution control facility initially*  
415 *permitted for development or construction after July 1, 1981; or the area of*  
416 *expansion beyond the boundary of a currently permitted pollution control facility;*  
417 *or a permitted pollution control facility requesting approval to store, dispose of,*  
418 *transfer or incinerate, for the first time, any special or hazardous waste [415*  
419 *ILCS 5/3.330(b)].*

420  
421 "Non-disclosable information" means *information which constitutes a trade*  
422 *secret; information privileged against introduction in judicial proceedings;*  
423 *internal communications of the several agencies; information concerning secret*  
424 *manufacturing processes or confidential data submitted by any person under the*  
425 *Act [415 ILCS 5/7(a)].*

426  
427 "Notice list" means the list of persons in a regulatory proceeding who will receive  
428 all Board opinions and orders and all hearing officer orders. Persons on a notice  
429 list generally do not receive copies of motions, public comments, or testimony.

430 (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code  
431 102.422.)

432  
433 "Notice to reinstate" means a document filed that recommences the decision  
434 period after a decision deadline waiver has been filed. The notice will give the  
435 Board a full decision period in which to make a decision. (See Section 101.308 of  
436 this Part.)

437  
438 "Oral argument" means a formal verbal statement of advocacy on a proceeding's  
439 legal questions made at a Board meeting with the Board's permission. (See  
440 Section 101.700 of this Part.)

441  
442 "OSFM" means Office of the State Fire Marshal.

443  
444 "OSFM appeal" means an appeal of an OSFM final decision concerning  
445 eligibility and deductibility made pursuant to Title XVI of the Act.

446  
447 "Participant" means any person, not including the Board or its staff, who takes  
448 part in an adjudicatory proceeding who is not a party, or a person who takes part  
449 in a regulatory or other quasi-legislative proceeding before the Board. A person  
450 becomes a participant in any of several ways, including filing a comment, being  
451 added to the notice list of a particular proceeding, or testifying at hearing.

452  
453 "Participant in a CAAPP Comment Process" means a person who takes part in a  
454 Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or  
455 comments on a draft CAAPP permit.

456  
457 "Party" means the person by or against whom a proceeding is brought.

458  
459 "Party in interest" means the Agency when asked to conduct an investigation  
460 pursuant to Section 30 of the Act during an ongoing proceeding. (See Section  
461 101.404 of this Part.)

462  
463 "Peremptory rulemaking" means *any rulemaking that is required as a result of*  
464 *federal law, federal rules and regulations, or an order of a court, under*  
465 *conditions that preclude compliance with the general rulemaking requirements of*  
466 *Section 5-40 of the IAPA and that preclude the exercise by the Board as to the*  
467 *content of the rule it is required to adopt. [5 ILCS 100/5-50]*

468  
469 "Permit appeal" means an adjudicatory proceeding brought before the Board  
470 pursuant to Title X of the Act.

471  
472 "Person" means *any individual, partnership, co-partnership, firm, company,*

473 *limited liability company, corporation, association, joint stock company, trust,*  
474 *estate, political subdivision, state agency, or any other legal entity, or their legal*  
475 *representative, agent or assigns. [415 ILCS 5/3.315]*  
476

477 "Petition" means the initial filing in an adjudicatory proceeding other than an  
478 enforcement proceeding, including permit appeals, OSFM appeals, UST appeals,  
479 appeals of pollution control facility siting decisions, variances and adjusted  
480 standards.

481 "Pilot project" means an innovative environmental project that covers one or more  
482 designated facilities, designed and implemented in the form of an EMSA. (See  
483 Section 52.3 of the Act.)  
484

485 "Pollution control facility" means *any waste storage site, sanitary landfill, waste*  
486 *disposal site, waste transfer station, waste treatment facility, or waste incinerator.*  
487 *This includes sewers, sewage treatment plants, and any other facilities owned or*  
488 *operated by sanitary districts organized under the Metropolitan Water*  
489 *Reclamation District Act. The following are not pollution control facilities:*  
490

491 *waste storage sites regulated under 40 CFR 761.42;*  
492

493 *sites or facilities used by any person conducting a waste storage, waste*  
494 *treatment, waste disposal, waste transfer or waste incineration operation,*  
495 *or a combination thereof, for wastes generated by such person's own*  
496 *activities, when such wastes are stored, treated, disposed of, transferred*  
497 *or incinerated within the site or facility owned, controlled or operated by*  
498 *such person, or when such wastes are transported within or between sites*  
499 *or facilities owned, controlled or operated by such person;*  
500

501 *sites or facilities at which the State is performing removal or remedial*  
502 *action pursuant to Section 22.2 or 55.3 of the Act;*  
503

504 *abandoned quarries used solely for the disposal of concrete, earth*  
505 *materials, gravel, or aggregate debris resulting from road construction*  
506 *activities conducted by a unit of government or construction activities due*  
507 *to the construction and installation of underground pipes, lines, conduit or*  
508 *wires off of the premises of a public utility company which are conducted*  
509 *by a public utility;*  
510

511 *sites or facilities used by any person to specifically conduct a landscape*  
512 *composting operation;*  
513

514 *regional facilities as defined in the Central Midwest Interstate Low-Level*  
515

516 *Radioactive Waste Compact;*  
517  
518 *the portion of a site or facility where coal combustion wastes are stored or*  
519 *disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of*  
520 *the Act;*  
521  
522 *the portion of a site or facility used for the collection, storage or*  
523 *processing of waste tires as defined in Title XIV;*  
524  
525 *the portion of a site or facility used for treatment of petroleum*  
526 *contaminated materials by application onto or incorporation into the soil*  
527 *surface and any portion of that site or facility used for storage of*  
528 *petroleum contaminated materials before treatment. Only those*  
529 *categories of petroleum listed in Section 57.9(a)(3) of the Act are exempt*  
530 *under this definition;*  
531  
532 *the portion of a site or facility where used oil is collected or stored prior*  
533 *to shipment to a recycling or energy recovery facility, provided that the*  
534 *used oil is generated by households or commercial establishments, and the*  
535 *site or facility is a recycling center or a business where oil or gasoline is*  
536 *sold at retail;*  
537  
538 *processing sites or facilities that receive only on-specification used oil, as*  
539 *defined in 35 Ill. Adm. Code 739, originating from used oil collectors for*  
540 *processing that is managed under 35 Ill. Adm. Code 739 to produce*  
541 *products for sale to off-site petroleum facilities, if these processing sites or*  
542 *facilities are:*  
543  
544 *located within a home rule unit of local government with a*  
545 *population of at least 30,000 according to the 2000 federal census,*  
546 *that home rule unit of local government has been designated as an*  
547 *Urban Round II Empowerment Zone by the United States*  
548 *Department of Housing and Urban Development, and that home*  
549 *rule unit of local government has enacted an ordinance approving*  
550 *the location of the site or facility and provided funding for the site*  
551 *or facility; and*  
552  
553 *in compliance with all applicable zoning requirements*~~{415 ILCS~~  
554 *5/3.330};*  
555  
556 *the portion of a site or facility utilizing coal combustion waste for*  
557 *stabilization and treatment of only waste generated on that site or facility*  
558 *when used in connection with response actions pursuant to the federal*

559 *Comprehensive Environmental Response, Compensation, and Liability Act*  
560 *of 1980, the federal Resource Conservation and Recovery Act of 1976, or*  
561 *the Illinois Environmental Protection Act or as authorized by the Agency;*

562  
563 *the portion of a site or facility ~~that accepts~~ <sup>accepting</sup> exclusively general*  
564 *construction or demolition debris, is located in a county with a*  
565 *population over ~~3,000,000~~ <sup>700,000</sup> as of January 1, 2000 or in a county*  
566 *that is contiguous to such a county, and is operated and located in*  
567 *accordance with Section 22.38 of the Act;*

568  
569 *the portion of a site or facility, located within a unit of local government*  
570 *that has enacted local zoning requirements, used to accept, separate, and*  
571 *process uncontaminated broken concrete, with or without protruding*  
572 *metal bars, provided that the uncontaminated broken concrete and metal*  
573 *bars are not speculatively accumulated, are at the site or facility no longer*  
574 *than one year after their acceptance, and are returned to the economic*  
575 *mainstream in the form of raw materials or products;*

576  
577 *the portion of a site or facility located in a county with a population over*  
578 *3,000,000 that has obtained local siting approval under Section 39.2 of*  
579 *the Act for a municipal waste incinerator on or before July 1, 2005 and*  
580 *that is used for a non-hazardous waste transfer station;*

581  
582 *the portion of a site or facility located in a county with a population*  
583 *greater than 3,000,000 that has obtained local siting approval, under*  
584 *Section 39.2 of the Act, for a municipal waste incinerator on or before*  
585 *July 1, 2005 and that is used for wood combustion facilities for energy*  
586 *recovery that accept and burn only wood material, as included in a fuel*  
587 *specification approved by the Agency;*

588  
589 *effective January 1, 2008, a site or facility that temporarily holds in transit*  
590 *for 10 days or less, non-putrescible solid waste in original containers, no*  
591 *larger in capacity than 500 gallons, provided that such waste is further*  
592 *transferred to a recycling, disposal, treatment, or storage facility on a*  
593 *non-contiguous site and provided such site or facility complies with the*  
594 *applicable 10-day transfer requirements of the federal Resource*  
595 *Conservation and Recovery Act of 1976 and United States Department of*  
596 *Transportation hazardous material requirements. For purposes of this*  
597 *Section only, "non-putrescible solid waste" means waste other than*  
598 *municipal garbage that does not rot or become putrid, including, but not*  
599 *limited to, paints, solvent, filters, and absorbents; ~~and~~*

600  
601 *a transfer station used exclusively for landscape waste, including a*



602 transfer station where landscape waste is ground to reduce its volume,  
603 where the landscape waste is held no longer than 24 hours from the time it  
604 was received; ~~[415 ILCS 5/3.330]~~  
605

606 the portion of a site or facility that is used for the composting of food  
607 scrap, livestock waste, crop residue, uncontaminated wood waste, or  
608 paper waste, including, but not limited to, corrugated paper or cardboard,  
609 and meets all of the following requirements:  
610

611 there must not be more than a total of 30,000 cubic yards of  
612 livestock waste in raw form or in the process of being composted at  
613 the site or facility at any one time;  
614

615 all food scrap, livestock waste, crop residue, uncontaminated wood  
616 waste, and paper waste must, by the end of each operating day, be  
617 processed and placed into an enclosed vessel in which air flow and  
618 temperature are controlled, or all of the following additional  
619 requirements must be met:  
620

621 the portion of the site or facility used for the composting  
622 operation must include a setback of at least 200 feet from  
623 the nearest potable water supply well;  
624

625 the portion of the site or facility used for the composting  
626 operation must be located outside the boundary of the 10-  
627 year floodplain or floodproofed;  
628

629 the portion of the site or facility used for the composting  
630 operation must be located at least one-eighth of a mile from  
631 the nearest residence, other than a residence located on the  
632 same property as the site or facility;  
633

634 the portion of the site or facility used for the composting  
635 operation must be located at least one-eighth of a mile from  
636 the property line of all of the following areas:  
637

638 facilities that primarily serve to house or treat  
639 people that are immunocompromised or  
640 immunosuppressed, such as cancer or AIDS  
641 patients; people with asthma, cystic fibrosis, or  
642 bioaerosol allergies; or children under the age of  
643 one year;  
644

645 primary and secondary schools and adjacent areas  
646 that the schools use for recreation;

647  
648 any facility for child care licensed under Section 3  
649 of the Child Care Act of 1969; preschools; and  
650 adjacent areas that the facilities or preschools use  
651 for recreation;

652  
653 by the end of each operating day, all food scrap, livestock  
654 waste, crop residue, uncontaminated wood waste, and  
655 paper waste must be processed into windrows or other  
656 piles and covered in a manner that prevents scavenging by  
657 birds and animals and that prevents other nuisances;

658  
659 food scrap, livestock waste, crop residue, uncontaminated wood  
660 waste, paper waste, and compost must not be placed within 5 feet  
661 of the water table;

662  
663 the site or facility must meet all of the requirements of the Wild  
664 and Scenic Rivers Act (16 USC 1271 et seq.);

665  
666 the site or facility must not restrict the flow of a 100-year flood,  
667 result in washout of food scrap, livestock waste, crop residue,  
668 uncontaminated wood waste, or paper waste from a 100-year  
669 flood, or reduce the temporary water storage capacity of the 100-  
670 year floodplain, unless measures are undertaken to provide  
671 alternative storage capacity, such as by providing lagoons, holding  
672 tanks, or drainage around structures at the facility;

673  
674 the site or facility must not be located in any area where it may  
675 pose a threat of harm or destruction to the features for which:

676  
677 an irreplaceable historic or archaeological site has been  
678 listed under the National Historic Preservation Act (16  
679 USC 470 et seq.) or the Illinois Historic Preservation Act  
680 [20 ILCS 3410];

681  
682 a natural landmark has been designated by the National  
683 Park Service or the Illinois State Historic Preservation  
684 Office; or  
685

686 a natural area has been designated as a Dedicated Illinois  
687 Nature Preserve under the Illinois Natural Areas  
688 Preservation Act [525 ILCS 30];

689  
690 the site or facility must not be located in an area where it may  
691 jeopardize the continued existence of any designated endangered  
692 species, result in the destruction or adverse modification of the  
693 critical habitat for such species, or cause or contribute to the  
694 taking of any endangered or threatened species of plant, fish, or  
695 wildlife listed under the Endangered Species Act (16 USC 1531 et  
696 seq.) or the Illinois Endangered Species Protection Act [520 ILCS  
697 10];

698  
699 the portion of a site or facility that is located entirely within a home rule  
700 unit having a population no less than 120,000 and no more than 135,000,  
701 according to the 2000 federal census, and that meets all of the following  
702 requirements:

703  
704 the portion of the site or facility is used exclusively to perform  
705 testing of a thermochemical conversion technology using only  
706 woody biomass, collected as landscape waste within the  
707 boundaries of the home rule unit, as the hydrocarbon feedstock for  
708 the production of synthetic gas in accordance with Section 39.9 of  
709 the Act;

710  
711 the portion of the site or facility is in compliance with all  
712 applicable zoning requirements; and

713  
714 a complete application for a demonstration permit at the portion of  
715 the site or facility has been submitted to the Agency in accordance  
716 with Section 39.9 of the Act within one year after July 27, 2010  
717 (the effective date of Public Act 96-1314);

718  
719 the portion of a site or facility used to perform limited testing of a  
720 gasification conversion technology in accordance with Section 39.8 of the  
721 Act and for which a complete permit application has been submitted to the  
722 Agency prior to one year from April 9, 2010 (the effective date of Public  
723 Act 96-887); and

724  
725 the portion of a site or facility that it used to incinerate only  
726 pharmaceuticals from residential sources that are collected and  
727 transported by law enforcement agencies under Section 17.9A of the Act.  
728 [415 ILCS 5/3.330]

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771

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage.* Additionally, it includes *all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream* [415 ILCS 20/3(f)(2)(i) and (ii)]. (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing* [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board pursuant to authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

772 "RCRA variance" means a variance from a RCRA rule or a RCRA permit  
773 required pursuant to Section 21(f) of the Act.  
774  
775 "Record" means the official collection, as kept by the Clerk, of all documents and  
776 exhibits including pleadings, transcripts, and orders filed during the course of a  
777 proceeding.  
778  
779 "Recycled paper" means paper which contains at least 50% recovered paper  
780 material. The recovered paper material must contain at least 45% deinked stock  
781 or postconsumer material. (See also "postconsumer material" in this Section.)  
782  
783 "Registered agent" means a person registered with the Secretary of State for the  
784 purpose of accepting service for any entity, or a person otherwise authorized in  
785 writing as an agent for the purpose of accepting service for that entity.  
786  
787 "Regulatory hearing" or "proceeding" means a hearing or proceeding held  
788 pursuant to Title VII of the Act or other applicable law with respect to  
789 regulations.  
790  
791 "Regulatory relief mechanisms" means variances, provisional variances and  
792 adjusted standards. (See 35 Ill. Adm. Code 104.)  
793  
794 "Representing" means, for purposes of Part 130, *describing, depicting,*  
795 *containing, constituting, reflecting or recording* [415 ILCS 5/7.1].  
796  
797 "Requester" means, for purposes of Part 130, the person seeking from the agency  
798 the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).  
799  
800 "Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste  
801 Disposal Act, as amended by the Resource Conservation and Recovery Act of  
802 1976 (42 USC 6901 et seq.).  
803  
804 "Rulemaking" or "rulemaking proceeding" means a proceeding brought under  
805 Title VII of the Act or other applicable law for the purpose of adoption,  
806 amendment, or repeal of a regulation.  
807  
808 "Sanction" means a penalty or other mechanism used by the Board to provide  
809 incentives for compliance with the Board's procedural rules, Board orders or  
810 hearing officer orders. (See also Subpart H of this Part.)  
811  
812 "SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).  
813  
814 "Service" means delivery of documents upon a person. (See Sections 101.300(c))

815 and 101.304 of this Part.)

816  
817 "Service list" means the list of persons designated by the hearing officer or Clerk  
818 in a regulatory or adjudicatory proceeding upon whom participants must serve  
819 motions, prefiled questions and prefiled testimony and any other documents that  
820 the participants file with the Clerk unless the hearing officer otherwise directs.  
821 (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code  
822 102.422.)

823  
824 "Severance" means the separation of a proceeding into two or more independent  
825 proceedings, each of which terminates in a separate, final judgment.

826  
827 "Site-specific rule or regulation" means a proposed or adopted regulation, not of  
828 general applicability, that applies only to a specific facility, geographic site, or  
829 activity. (See 35 Ill. Adm. Code 102.208.)

830  
831 "Sponsor" means the proponent of a pilot project that enters into an EMSA with  
832 the Agency.

833  
834 "State enforcement proceeding" means an enforcement proceeding, other than a  
835 citizen's enforcement proceeding, that is brought pursuant to Section 31 of the  
836 Act.

837  
838 "Stay" means a temporary suspension of the regular progress of a proceeding  
839 pursuant to an order of the Board or by operation of law. (See Section 101.514 of  
840 this Part.)

841  
842 "Subpoena" means a command to appear at a certain time and place to give  
843 testimony upon a certain matter.

844  
845 "Subpoena duces tecum" means a document that compels the production of  
846 specific documents and other items at a specified time and place.

847  
848 "Summary judgment" means the disposition of an adjudicatory proceeding  
849 without hearing when the record, including pleadings, depositions and admissions  
850 on file, together with any affidavits, shows that there is no genuine issue of  
851 material fact, and that the moving party is entitled to judgment as a matter of law.  
852 (See Section 101.516 of this Part.)

853  
854 "Third party complaint" means a pleading that a respondent files setting forth a  
855 claim against a person who is not already a party to the proceeding. (See 35 Ill.  
856 Adm. Code 103.206.)

857

858 "Trade secret" means *the whole or any portion or phase of any scientific or*  
859 *technical information, design, process (including a manufacturing process),*  
860 *procedure, formula or improvement, or business plan which is secret in that it has*  
861 *not been published or disseminated or otherwise become a matter of general*  
862 *public knowledge, and which has competitive value. A trade secret is presumed*  
863 *to be secret when the owner thereof takes reasonable measures to prevent it from*  
864 *becoming available to persons other than those selected by the owner to have*  
865 *access thereto for limited purposes. [415 ILCS 5/3.490]*  
866

867 "Transcript" means the official recorded testimony from a hearing.  
868

869 "USEPA" means the United States Environmental Protection Agency.  
870

871 "Underground storage tank appeal" or "UST appeal" means an appeal of an  
872 Agency final decision made pursuant to Title XVI of the Act.  
873

874 "UST" means underground storage tank.  
875

876 "Variance" means a temporary exemption from any specified regulation,  
877 requirement or order of the Board granted to a petitioner by the Board pursuant to  
878 Title IX of the Act *upon presentation of adequate proof that compliance with the*  
879 *rule or regulation, requirement or order of the Board would impose an arbitrary*  
880 *or unreasonable hardship [415 ILCS 5/35(a)].*  
881

882 "Waiver" means the intentional relinquishing of a known right, usually with  
883 respect to a hearing before the Board or entry of a Board decision within the  
884 decision period. (See also Section 101.308 of this Part.)  
885

886 "Web site" means the Board's computer-based informational service accessed on  
887 the Internet at <http://www.ipcb.state.il.us>.  
888

889 (Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

PART 101  
GENERAL RULES

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101.514 Motions to Stay Proceedings  
101.516 Motions for Summary Judgment  
101.518 Motions for Interlocutory Appeal from Hearing Officer Orders  
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Section

101.700 Oral Argument

SUBPART H: SANCTIONS

Section

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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. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART ~~A: GENERAL PROVISIONS~~ B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act [415 ILCS 5/1].

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board pursuant to authority granted to the Board under Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding pursuant to Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means a citation issued pursuant to Section 31.1 of the Act by the Agency, or by a unit of local government acting as the Agency's delegate pursuant to Section 4(r) of the Act.

"Administrative citation review (appeal)" means a petition for review of an administrative citation filed pursuant to Section 31.1(d) of the Act. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

"Affidavit of service" means an affidavit that states that service of a document upon specified persons was made, and the manner in which, and date upon which, service was made.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency pursuant to Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its recommended disposition of a petition for variance or an adjusted standard. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628 of this Part.)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval pursuant to any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map [415 ILCS 5/7.1].

"Attorney General" means the Attorney General of the State of Illinois or representatives thereof.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least three members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board pursuant to Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that contains a summary of the facts of a proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor pursuant to Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board pursuant to Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" means the federal Clean Air Act, as now and hereafter amended, 42 USC 7401 et seq. [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.

"Clerk" means the Clerk of the Board.

"Complaint" means the initial filing that begins an enforcement proceeding pursuant to Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

"Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article [415 ILCS 5/7.1].

"Counter-complaint" means a pleading that a respondent files setting forth a claim against a complainant. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files setting forth a claim against a co-party. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land and/or water.

"Decision date" means the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board is required to render a decision in an adjudicatory proceeding. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

"Decision period" means the period of time established by the Act within which the Board is required to make a Board decision in certain adjudicatory proceedings. (See Subpart C of this Part.) (See also Sections 38(a), 40, and

40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" means paper that has been processed to remove inks, clays, coatings, binders and other contaminants [415 ILCS 20/2.1].

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation or other function pursuant to Section 4(r) of the Act.

"DNR" means the Illinois Department of Natural Resources.

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding in order to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

"DOA" means the Illinois Department of Agriculture.

"Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the Board. "Ex parte communication" does not include the following:

statements by a person publicly made in a public forum, including pleadings, transcripts, and public comments made part of the proceeding's record;

statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and

statements made by a State employee of the Board to Board members or other employees of the Board. [5 ILCS 430/5-50(b)]. For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114 of this Part.)

"Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant to Section 28.5 of the Act.

"Federally required rule" means a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource

Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40 [415 ILCS 5/28.2].

"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago, IL 60601.

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is appealable to an appellate court pursuant to Section 41 of the Act. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Identical-in-substance rules" ~~or "identical-in-substance regulations"~~ means State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois [415 ILCS 5/7.2].

"Initial filing" means the filing that initiates a Board proceeding and opens a docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

"Inquiry hearing" means a hearing conducted by the Board for the purpose of seeking input and comment from the public regarding the need for a rulemaking proceeding in a specific area.

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518 of this Part.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the leave of the Board. (See Section 101.402 of this Part.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 of this Part and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in name, giving an incorrect name in a complaint or other document with respect to any properly included party.

"Motion" means a request made to the Board or the hearing officer for the purposes of obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste [415 ILCS 5/3.330(b)].

"Non-disclosable information" means information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act [415 ILCS 5/7(a)].

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Notice to reinstate" means a document filed that recommences the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308 of this Part.)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700 of this Part.)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made pursuant to Title XVI of the Act.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding who is not a party, or a person who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment,

being added to the notice list of a particular proceeding, or testifying at hearing.

"Participant in a CAAPP Comment Process" means a person who takes part in a Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.

"Party" means the person by or against whom a proceeding is brought.

"Party in interest" means the Agency when asked to conduct an investigation pursuant to Section 30 of the Act during an ongoing proceeding. (See Section 101.404 of this Part.)

"Peremptory rulemaking" means any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the Board as to the content of the rule it is required to adopt. [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board pursuant to Title X of the Act.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

"Petition" means the initial filing in an adjudicatory proceeding other than an enforcement proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" means any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities:

waste storage sites regulated under 40 CFR 761.42;

sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3 of the Act;



abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;

sites or facilities used by any person to specifically conduct a landscape composting operation;

regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of the Act;

the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) of the Act are exempt under this definition;

the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Adm. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Adm. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are:

located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and

in compliance with all applicable zoning requirements ~~[415 ILCS 5/3-330]~~;

the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

the portion of a site or facility that ~~accepts~~~~accepting~~accepts exclusively general construction or demolition debris, is located in a county with a population over ~~3,000,000~~~~700,000~~3,000,000 as of January 1, 2000 or in a county that is contiguous to such a county, and is operated and located in accordance with Section 22.38 of the Act;

the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of the Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;

the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of the Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;

effective January 1, 2008, a site or facility that temporarily holds in transit for 10 days or less, non-putrescible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-putrescible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;~~and~~

a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received;~~---~~  
~~{415 ILCS 5/3.330}~~

the portion of a site or facility that is used for the composting of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste, including, but not limited to, corrugated paper or cardboard, and meets all of the following requirements:

there must not be more than a total of 30,000 cubic yards of livestock waste in raw form or in the process of being composted at the site or facility at any one time;

all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must, by the end of each operating day, be processed and placed into an enclosed vessel in which air flow and temperature are controlled, or all of the following additional requirements must be met:

the portion of the site or facility used for the composting operation must include a setback of at least 200 feet from the nearest potable water supply well.

the portion of the site or facility used for the composting operation must be located outside the boundary of the 10-year floodplain or floodproofed.

the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility.

the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the property line of all of the following areas:

facilities that primarily serve to house or treat people that are immunocompromised or immunosuppressed, such as cancer or AIDS patients; people with asthma, cystic fibrosis, or bioaerosol allergies; or children under the age of one year.

primary and secondary schools and adjacent areas that the schools use for recreation.

any facility for child care licensed under Section 3 of the Child Care Act of 1969; preschools; and adjacent areas that the facilities or preschools use for recreation.

by the end of each operating day, all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must be processed into windrows or other piles and covered in a manner that prevents scavenging by birds and animals and that prevents other nuisances.

~~Feed~~ food scrap, livestock waste, crop residue, uncontaminated wood waste, paper waste, and compost must not be ~~place~~ placed within 5 feet of the water table.

~~The~~ the site or facility must meet all of the requirements of the Wild and Scenic Rivers Act (16 ~~U.S.C.~~ USC 1271 et seq.).

~~The~~ the site or facility must not restrict the flow of a 100-year flood, result in washout of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste from a 100-year flood, or reduce the temporary water storage capacity of the 100-year floodplain, unless measures are undertaken to provide alternative storage capacity, such as by providing lagoons, holding tanks, or drainage around structures at the facility.

~~The~~ the site or facility must not be located in any area where it may pose a threat of harm or destruction to the features for which.

an irreplaceable historic or archaeological site has been listed under the National Historic Preservation Act (16 ~~U.S.C.~~ USC 470 et seq.) or the Illinois Historic Preservation Act [20 ILCS 3410];

a natural landmark has been designated by the National Park Service or the Illinois State Historic Preservation Office; or

a natural area has been designated as a Dedicated Illinois Nature Preserve under the Illinois Natural Areas Preservation Act [525 ILCS 30];

~~The~~the site or facility must not be located in an area where it may jeopardize the continued existence of any designated endangered species, result in the destruction or adverse modification of the critical habitat for such species, or cause or contribute to the taking of any endangered or threatened species of plant, fish, or wildlife listed under the Endangered Species ~~et~~Act (16 ~~U.S.C.~~USC 1531 et seq.) or the Illinois Endangered Species Protection Act [520 ILCS 10];

the portion of a site or facility that is located entirely within a home rule unit having a population no less than 120,000 and no more than 135,000, according to the 2000 federal census, and that meets all of the following requirements:

the portion of the site or facility is used exclusively to perform testing of a thermochemical conversion technology using only woody biomass, collected as landscape waste within the boundaries of the home ~~rules~~rule unit, as the hydrocarbon feedstock for the production of synthetic gas in accordance with Section 39.9 of the Act;

the portion of the site or facility is in compliance with all applicable zoning requirements; and

a complete application for a demonstration permit at the portion of the site or facility has been submitted to the Agency in accordance with Section 39.9 of the Act within one year after July 27, 2010 (the effective date of Public Act 96-1314);

the portion of a site or facility used to perform limited testing of a gasification conversion technology in accordance with Section 39.8 of the Act and for which a complete permit application has been submitted to the Agency prior to one year from April 9, 2010 (the effective date of Public Act 96-887); and

the portion of a site or facility that it used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies under Section 17.9A of the Act. [415 ILCS 5/3.330]

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

"Postconsumer material" means paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage. Additionally, it includes all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream [415 ILCS 20/3(f)(2)(i) and (ii)]. (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which shall be to maximize understanding of the intent and application of the

proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board pursuant to authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required pursuant to Section 21(f) of the Act.

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during the course of a proceeding.

"Recycled paper" means paper which contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

"Registered agent" means a person registered with the Secretary of State for the purpose of accepting service for any entity, or a person otherwise authorized in writing as an agent for the purpose of accepting service for that entity.

"Regulatory hearing" or "proceeding" means a hearing or proceeding held pursuant to Title VII of the Act or other applicable law with respect to regulations.

"Regulatory relief mechanisms" means variances, provisional variances and adjusted standards. (See 35 Ill. Adm. Code 104.)

"Representing" means, for purposes of Part 130, describing, depicting, containing, constituting, reflecting or recording [415 ILCS 5/7.1].

"Requester" means, for purposes of Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

"Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H of this Part.)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

"Service" means delivery of documents upon a person. (See Sections 101.300(c) and 101.304 of this Part.)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory or adjudicatory proceeding upon whom participants must serve motions, prefiled questions and prefiled testimony and any other documents that the participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into two or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought pursuant to Section 31 of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding pursuant to an order of the Board or by operation of law. (See Section 101.514 of this Part.)

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516 of this Part.)

"Third party complaint" means a pleading that a respondent files setting forth a claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

"Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. [415 ILCS 5/3.490]

"Transcript" means the official recorded testimony from a hearing.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made pursuant to Title XVI of the Act.

"UST" means underground storage tank.

"Variance" means a temporary exemption from any specified regulation, requirement or order of the Board granted to a petitioner by the Board pursuant to Title IX of the Act upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship [415 ILCS 5/35(a)].

"Waiver" means the intentional relinquishing of a known right, usually with respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308 of this Part.)

"Web site" means the Board's computer-based informational service accessed on the Internet at <http://www.ipcb.state.il.us>.

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

[JCAR350101-1202444r01](#)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF PROPOSED AMENDMENT~~

Document comparison done by DeltaView on Friday, February 10, 2012 9:45:55 AM

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