

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
101.110	Amendment
101.111	New Section
101.202	Amendment
101.300	Amendment
101.302	Amendment
101.304	Amendment
101.306	Amendment
101.400	Amendment
101.902	Amendment
101.904	Amendment
101.906	Amendment
101.1000	New Section
101.1010	New Section
101.1020	New Section
101.1030	New Section
101.1040	New Section
101.1050	New Section
101.1060	New Section
101.1070	New Section
101.Appendix E	Amendment
101.Illustration A	Amendment
101.Illustration B	Amendment
101.Appendix H	New Section
101.Illustration A	New Section
101.Appendix I	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: In this procedural rulemaking, the Board proposes amendments for two primary purposes. First, the rules will codify procedural standards for remarks by members of the public at the Board's open meetings in accordance with the Open Meetings Act (OMA) [5 ILCS 120/1 et seq.] Second, these rules will permit, with certain limited exceptions, electronic filing in all Board proceedings through the Board's Clerk's Office On-Line or "COOL", as well as

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Pollution Control Board

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service by e-mail of most types of filings. The proposed amendments to the procedural rules to accommodate public remarks are in Part 101, primarily Section 101.110. The proposed amendments to implement electronic filing through COOL, while affecting a number of provisions throughout all parts of the procedural rules, are concentrated in Part 101, which contains the general rules that apply to all Board proceedings, adjudicatory and regulatory. The core of the new proposed rules on electronic filing and service by e-mail is new Subpart J (Sections 101.1000 through 101.1070). The Board also proposes a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks, e.g., amending the definition of "pollution control facility" in Section 101.202 to incorporate amendments to the Environmental Protection Act's definition of the term [415 ILCS 5/3.330] enacted by PA 98-239 (eff. August 9, 2013) and PA 98-146 (eff. January 1, 2014). For a detailed description of the proposed changes to Part 101, please refer to the Board's June 5, 2014 opinion and order in docket R14-21: Procedural Rule Amendments to Implement Electronic Filing and Allow For Public Remarks at Board Meetings: Proposed Amendments to 35 Ill. Adm. Code 101-130.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 rulemaking 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: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R14-21 and be addressed to:

Clerk's Office  
Illinois Pollution Control Board  
JRTC

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100 W. Randolph St., Suite 11-500  
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

Interested persons may request copies of the Board's opinion and order in R14-21 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For more information, contact hearing officer Mark Powell at 312/814-6887 or [Mark.Powell@illinois.gov](mailto:Mark.Powell@illinois.gov).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because the Board was required, due to a recent Appellate Court decision, to revisit its procedural rules and develop new proposed rules.

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

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

PART 101  
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

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STATE OF ILLINOIS  
Pollution Control Board

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
101.111	Informal Recordings of Board Meetings
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

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

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents from Another <del>Proceeding by</del> <u>Proceeding by</u> Reference
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section	
101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings
101.402	Intervention of Parties
101.403	Joinder of Parties

- 101.404 Agency as a Party in Interest
- 101.406 Consolidation of Claims
- 101.408 Severance of Claims

SUBPART E: MOTIONS

- Section
- 101.500 Filing of Motions and Responses
- 101.502 Motions Directed to the Hearing Officer
- 101.504 Contents of Motions and Responses
- 101.506 Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
- 101.508 Motions to Board Preliminary to Hearing
- 101.510 Motions to Cancel Hearing
- 101.512 Motions for Expedited Review
- 101.514 Motions to Stay Proceedings
- 101.516 Motions for Summary Judgment
- 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders
- 101.520 Motions for Reconsideration
- 101.522 Motions for Extension of Time

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

- Section
- 101.600 Hearings
- 101.602 Notice of Board Hearings
- 101.604 Formal Board Transcript
- 101.606 Informal Recordings of the Proceedings
- 101.608 Default
- 101.610 Duties and Authority of the Hearing Officer
- 101.612 Schedule to Complete the Record
- 101.614 Production of Information
- 101.616 Discovery
- 101.618 Admissions
- 101.620 Interrogatories
- 101.622 Subpoenas and Depositions
- 101.624 Examination of Adverse, Hostile or Unwilling Witnesses
- 101.626 Information Produced at Hearing
- 101.628 Statements from Participants
- 101.630 Official Notice
- 101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section  
101.700 Oral Argument

SUBPART H: SANCTIONS

Section  
101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing  
Officer Orders  
101.802 Abuse of Discovery Procedures

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section  
101.902 Motions for Reconsideration  
101.904 Relief from and Review of Final Opinions and Orders  
101.906 Judicial Review of Board Orders  
101.908 Interlocutory Appeal

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section  
101.1000 Electronic Filing and E-Mail Service  
101.1010 Electronic Filing Authorization and Signatures  
101.1020 Filing Electronic Documents  
101.1030 Form of Electronic Documents for Filing  
101.1040 Filing Fees  
101.1050 Documents Required in Paper or Excluded from Electronic Filing  
101.1060 E-Mail Service  
101.1070 Consenting to Receipt of E-Mail Service

101.APPENDIX A

Captions

101.ILLUSTRATION A	Enforcement Case
101.ILLUSTRATION B	Citizen <sup>2</sup> 's Enforcement Case
101.ILLUSTRATION C	Variance
101.ILLUSTRATION D	Adjusted Standard Petition
101.ILLUSTRATION E	Joint Petition for an Adjusted Standard
101.ILLUSTRATION F	Permit Appeal
101.ILLUSTRATION G	Underground Storage Tank Appeal
101.ILLUSTRATION H	Pollution Control Facility Siting Appeal
101.ILLUSTRATION I	Administrative Citation

	101.ILLUSTRATION J	General Rulemaking
	101.ILLUSTRATION K	Site-specific Rulemaking
101.APPENDIX B	Appearance Form	
101.APPENDIX C	Withdrawal of Appearance Form	
101.APPENDIX D	Notice of Filing	
101.APPENDIX E	Affidavit or Certificate of Service	
	101.ILLUSTRATION A	Service by Non-Attorney
	101.ILLUSTRATION B	Service by Attorney
101.APPENDIX F	<del>Form</del> Notice of Withdrawal (Repealed)	
101.APPENDIX G	Comparison of Former and Current Rules (Repealed)	
101.APPENDIX H	Affidavit or Certificate of E-Mail Service	
	101.ILLUSTRATION A	E-Mail Service by Non-Attorney
	101.ILLUSTRATION B	E-Mail Service by Attorney
101.APPENDIX I	Consent to Receipt of E-Mail Service	

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] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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 R+10-22 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 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 101.110 Public Participation**

- a) General. The Board encourages public participation in all of its proceedings. The extent to which the law allows for the participation varies, depending on the type of Board proceeding involved, the party status of the person or persons seeking to participate, and the rules governing that type of proceeding. Public participation in particular proceedings may be more specifically delineated by Board or hearing officer order consistent with the provisions of applicable law and the Board's

procedural rules. (See Sections 101.114 and 101.628 of this Part.)

- b) **Party/Non-Party Status.** The issue of who constitutes a proper party in each type of adjudicatory proceeding before the Board is addressed in the rules. A person who wishes to participate in a Board adjudicatory proceeding and is not a party will be deemed a participant and will have only those rights specifically provided in these rules. A person who wishes to participate in a Board regulatory proceeding will be deemed a participant and will have only those rights specifically provided in these rules.
- c) **Amicus Curiae Briefs.** Amicus curiae briefs may be filed in any adjudicatory proceeding by any interested person, provided permission is granted by the Board. Response briefs may be allowed by permission of the Board, but not as of right. The briefs must consist of argument only and may not raise facts that are not in evidence in the relevant proceeding. Amicus curiae briefs, and any responses, will be considered by the Board only as time allows. The briefs will not delay decision-making of the Board. (See also Section 101.302(k) of this Part.)
- d) **Public Remarks.** During the time period designated for public remarks at a Board meeting, any person physically present at the meeting, once recognized by the Chairman, may make public remarks to the Board concerning a proceeding listed on that meeting's agenda.
  - 1) **Sign-In Sheet.** Beginning at least 15 minutes before the scheduled start of each Board meeting, a public remarks sign-in sheet will be available to the public at the meeting. Anyone who wishes to make public remarks at the meeting must provide the following information on the sign-in sheet:
    - A) ~~Their full~~Full name;
    - B) Any person ~~they are~~he or she is representing; and
    - C) The docket number of the proceeding on which ~~they~~he or she would like to make public remarks.
  - 2) **Time Limits.** A time period of up to 30 minutes at the beginning of each Board meeting, as designated on the meeting agenda, is reserved for public remarks. The Chairman may extend the duration of the public remarks portion of the meeting as necessary to accommodate persons who signed in pursuant to subsection (d)(1) of this Section. A person's public remarks on a given proceeding must not exceed five minutes in length, but this time period may be extended with the Chairman's permission.



- 3) **Nature of Public Remarks.** Public remarks are not made under oath or affirmation and are not subject to cross-examination. Public remarks that are relevant to the proceeding for which they are made may be considered by the Board, but factual statements made during public remarks do not constitute evidence in the proceeding. The public remarks portion of a Board meeting is not a hearing and cannot be used to offer documentary or other physical evidence to the Board. The Chairman may direct persons to cease public remarks that are irrelevant, repetitious, or disruptive. Persons engaging in disorderly conduct may be asked by the Chairman to leave the meeting.
- 4) **Transcription.** The Board will arrange for public remarks to be transcribed. Transcripts of public remarks will be made a part of the record of the proceeding to which the remarks correspond. (See 5 ILCS 120/2.06(g).)

(Source: Amended at 38 Ill. Reg. – \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 101.111 Informal Recordings of Board Meetings**

Any person may record a Board meeting by tape, film, or any other means if the recording process does not interfere with the conduct or decorum of the Board meeting. The Chairman may direct any person who is recording a Board meeting to limit or discontinue the recording if the recording process interferes with the conduct or decorum of the Board meeting.

(Source: Added at 38 Ill. Reg. – \_\_\_\_\_, effective \_\_\_\_\_)

#### **SUBPART 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)” or “administrative citation 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.

“Clerk’s Office On-Line” or “COOL” means the Board’s web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board’s adjudicatory and regulatory proceedings. COOL is located on the Board’s website.

“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 date of 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.

"Digital signature" means a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105].

"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.

"DNR" means the Illinois Department of Natural Resources.

"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.

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies [5 ILCS 175/5-105].

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information

system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means *a signature in electronic form attached to or logically associated with an electronic document* [5 ILCS 175/5-105].

"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, and public remarks made part of the proceeding's record* [5 ILCS 430/5-50(b)(i)];

*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* [5 ILCS 430/5-50(b)(ii)]; 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)(iii)]. 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. Electronic filing is done through COOL on the Board’s website.

“Final order” means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is subject to ~~judicial review~~ ~~appealable~~ ~~review~~ ~~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, or making public remarks at a Board meeting.

“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 ~~an~~ adjudicatory adjudicatory proceeding is brought or who is granted party status by the Board through intervention or joinder.

“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;*

*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 exclusively general construction or demolition debris, is located in a county with a population over 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;

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;

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;

*except in municipalities with more than 1,000,000 inhabitants, 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;*

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

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

*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 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 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 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 Act (16 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 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; and*

*until July 1, 2017, the portion of a site or facility:*

*that is used exclusively for the transfer of commingled landscape waste and food scrap held at the site or facility for no longer than 24 hours after their receipt;*

*that is located entirely within a home rule unit having a population of either not less than 100,000 and not more than 115,000 according to the 2010 federal census or not less than 5,000 and not more than 10,000 according to the 2010 federal census;*

*that is permitted, by the Agency, prior to January 1, 2002, for the transfer of landscape waste; and*

*for which a permit application is submitted to the Agency by July 1, ~~2014~~, 2014 to modify an existing permit for the transfer of landscape waste to also include, on a demonstration basis not to exceed 18 months, the transfer of commingled landscape waste and food scrap. [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.

"Public remarks" mean an oral statement that is publicly made at a Board meeting and directed to the Board concerning a proceeding listed on that meeting's agenda. (See Section 101.110(d) of this Subpart.)

"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 or public remarks from a Board meeting.

“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.)

“Website” means the Board’s computer-based informational and filing service accessed on the Internet at <http://www.ipcb.state.il.us>.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART C: COMPUTATION OF TIME, FILING, SERVICE OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

##### Section 101.300 Computation of Time

- a) Computation of Time. *Computation of any period of time prescribed in the Act, other applicable law, or these rules will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.*
- b) Time of Filing. Documents will be considered filed when they are filed in

conformance with the requirements found in Section 101.302 of this ~~Subpart-Part~~ Subpart and any other filing requirements specified elsewhere specifically set out ~~specified elsewhere~~ in the Board's procedural ~~the other Parts of these the Board's procedural~~ rules. Subpart J of this Part sets forth when electronic documents submitted to COOL will be considered filed...

- 1) If ~~delivered-filed~~ delivered ~~filed~~ filed in person, by messenger service, or by mail delivery service other than U.S. Mail, documents are considered filed when they are received in the Office of the Clerk.
  - 2) If the Clerk receives a document is filed by U.S. Mail subsequent to a filing deadline date, yet the postmark date precedes or is the same as the filing deadline date, the document will be deemed filed on the postmark date, provided all filing requirements are met as set forth in Section 101.302 of this Subpart-~~Part~~ Part are ~~met-~~ met.
  - 3) Documents filed and received in the Office of the Clerk after 4:30 p.m. will be marked as filed the following business day, provided all filing requirements set forth in Section 101.302 of this Subpart are met. The Clerk will record the appropriate filing date on all filed documents.
  - 4) For purposes of Board decision deadlines, the decision ~~period-~~ time ~~period~~ time does not begin until the date on which the initial filing is date-stamped by the Clerk.
- c) Time of Service. In the case of personal service, service is deemed complete on the date personal delivery was effectuated. In the case of facsimile transmission, service is deemed complete on the date of a complete and proper transmittal. Facsimile (facsimile ~~Faesimile~~ filings are only allowed in accordance with Section 101.302(d) of this ~~Subpart-Part~~ Subpart). In the case of service by e-mail, Section 101.1060(d) of this Part sets forth when service is deemed complete. E-mail filings are only allowed in accordance with Section 101.302(d) of this Subpart. In the case of service by registered or certified mail, or by messenger service, ~~service is deemed complete on the date specified on the registered or certified mail receipt or the messenger service receipt. In the case of service by the~~ U.S. Mail, service is presumed complete four days after mailing. The presumption can be rebutted by proper proof.
- d) Date of Board Decision.
- 1) For purposes of statutory decision deadline proceedings, the date of the Board decision is the date of the Board meeting where a final opinion and order of the Board was adopted by the vote of at least three Board

members.

- 2) For purposes of appeal, the date of the party's certified mail receipt of the Board decision is the date of service of the final opinion and order by the Board upon the appealing party. Or, in the event of a timely filed motion for reconsideration filed pursuant to Section 101.520 of this Part, the date of the party's certified mail receipt of the Board order ruling upon the motion is the date of service by the Board upon the appealing party.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 101.302 Filing of Documents

- a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in ~~these~~ the Board's ~~procedural's~~ ~~procedural~~ these rules. The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.
- b) All documents to be filed with the Board must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010 of this Part. All documents to be filed with the Board must be filed with the Clerk's Office. Service on a hearing officer does not constitute filing with the Board unless the document is submitted to the hearing officer during the course of a hearing. Documents may be filed at:  
  
Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218
- c) Documents may be filed by U.S. Mail or other mail delivery service, by electronic means in accordance with Subpart J of this Part, in person, or by messenger.
- d) A ~~filing~~ ~~Filing~~ ~~filing~~ ~~Filing~~ by ~~electronic~~ ~~e-mail~~ ~~electronic~~ transmission ~~e-mail~~ or facsimile will only be allowed with the prior approval of the Clerk of the Board or hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
- e) The following initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee, ~~which~~ The

fee, which may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1) of this Part, but ~~cannot~~ which cannot which may not be paid in cash.:

- 1) Petition for Site-Specific Regulation, \$75;
  - 2) Petition for Variance, \$75;
  - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, \$75;
  - 4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, \$75; and
  - 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, \$75.
- f) All documents filed must be served in accordance with Subpart C of this Part.
- g) All documents filed with the Board ~~must should~~ must should contain the relevant proceeding caption and docket number. ~~and~~ All documents and must be submitted on or formatted to print on 8-~~1/2~~1/2 x 11 inch paper, except as provided in subsection (j) of this Section. Paper documents ~~must be submitted~~ on recycled paper as defined in Subpart B of this Part, and, if feasible, double sided if feasible. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:
- 1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and
  - 2) The size of the type in the body of the text must be no less than 12 point font, and in footnotes no less than 10 point font.\_
- h) Unless the Board or its procedural rules provide otherwise, all documents must be filed in paper or through COOL electronically pursuant to this subsection.-with a signed original and 9 duplicate copies (10 total), except that: -
- 1) Except as provided in subsection (h)(2), (h)(3), or (h)(4) of this Section:–
    - A) Any type of document may be filed in paper or through COOL.
    - B) If a document is filed in paper, the original and three copies of the document (four total) are required.

- C) If a document is filed through COOL in accordance with Subpart J of this Part, no paper original or copy of the document is required.
- 2) The original documents listed in this subsection (h)(2) must be filed in paper. In lieu of filing three paper copies with the original pursuant to subsection (h)(1)(B) of this Section, a compact disk of the document in text searchable Adobe PDF may be filed with the original. The following documents must be filed in paper:
- A) The original Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification) (see 35 Ill. Adm. Code 105.116);
  - B) The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility) (see 35 Ill. Adm. Code 105.116);
  - C) The original local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting) (see 35 Ill. Adm. Code 107.304); and
  - D) An original oversized exhibit (see subsection (j) of this Section).
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code ~~130.130~~, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.
- 4) When filing a rulemaking proposal, the proponent must file four paper originals of any document that is protected by copyright law ~~{(17 USC 101 et seq.)}~~ and proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference. Any such copyrighted document is prohibited from being filed electronically and must instead be filed only in paper. The remainder of the rulemaking proposal may be filed through COOL.
- 1) Documents and motions specifically directed to the assigned hearing officer must be filed with the Clerk with a signed original and 4 duplicate



copies (5 total), or as the hearing officer orders;

- 2)- The Agency may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.116, 105.302, and 105.410;
  - 3) The OSFM may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.508; and
  - 4) The siting authority may file a signed original and 4 duplicate copies (5 total) of the record required by Sections 107.300 and 302.
- i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except upon leave or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in ~~accordance~~accordanc with subsection (h) of this ~~Section~~withSectionwith a signed original and 4 duplicate copies (5 total), or as the hearing officer directs.
- j) ~~Oversized NonOversizedNon~~-Conforming Exhibits. When reasonably practicable-~~possible, oversized, oversizedpossible.~~ exhibits must be reduced to conform to or be formatted to print on 8-1/2 x 11 inch recycled paper for filing with the Clerk's Office. However, ~~one~~ even when an oversized exhibit is so reduced or formatted, ~~the~~theone non-conforming original oversized exhibit still ~~must~~copy ~~copy~~mustcopy may be filed with the Clerk's Office. ~~Upon closure of the proceeding.~~ Upon closure of the proceeding, the non-conforming original oversized exhibit ~~exhibit~~exhibitnon-conforming copy may be returned to the person who ~~filed~~filed ~~filing~~filed it in accordance with 2 Ill. Adm. Code 2175.300.
- ~~k)k)~~ Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

(Source: Amended at 38 Ill. Reg.         , effective         )

#### 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.** Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Documentation Proof of service of initial filings must be filed with the Board upon completion of service.
- c) **Method of Service.** Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or by e-mail in accordance with Subpart J of this ~~Part~~ as prescribed in Section 101.302(d), except for service of enforcement complaints, and administrative citations, and EMSA statements of deficiency, which must be made personally, by registered or certified mail, or by messenger service. ~~Documentation Proof~~ Documentation Proof of service of enforcement complaints, and administrative citations, and EMSA statements of deficiency must be filed with the Board upon completion of service.
- d) **Affidavit or Certificate of Service.** A proceeding is subject to dismissal, and ~~persons parties~~ are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Documentation Proof of proper service is the responsibility of the ~~party person~~ filing and serving the document. An affidavit of service or certificate of service must accompany all filings of all parties. A sample form of the affidavit of service and certificate of service is available in Appendix E ~~to of this Part at~~ the Board's Offices (the locations of the Board's Offices are listed at 2 Ill. Adm. Code 2175.115) and may be obtained electronically at the Board's Web site.
- 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 accordance with this Section.
- f) **Service of Comments of Participants in an Adjudicatory Proceeding.** Participants are required to serve their 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 State Agencies.** Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in accordance with Section 101.1070 of this Part, consented to e-mail service.
  - 1) **Service on the Illinois Environmental Protection Agency (Agency).** The Agency must be served at the following address:

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East

P.O. Box 19276  
Springfield IL 62794-9276

- 2) Service on Office of State Fire Marshal (OSFM). The OSFM must be served at the following address:

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 the following address:

Division Chief of Environmental Enforcement  
Office of the Attorney General  
100 West Randolph St., Suite 1200  
Chicago IL 60601

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

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). IDOT must be served at the following address:

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). USEPA Region V must be served at the following address:

USEPA, Region V  
77 West Jackson  
Chicago IL 60604

(Source: Amended at 38 Ill. Reg. —\_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.306 Incorporation of Documents from Another ~~Proceeding by~~ Proceeding by Reference**

- a) Upon the separate written request of any person or on its own initiative, the Board or hearing officer may incorporate materials from the record of another Board docket into any proceeding. The person seeking incorporation must file the material to be incorporated with the Board in accordance with Section 101.302(h) of this Subpart 4 copies of the material to be incorporated. The Board or hearing officer may approve a reduced number of copies for documents incorporated in other Board dockets. The person seeking incorporation must demonstrate to the Board or the hearing officer that the material to be incorporated is authentic, credible, and relevant to the proceeding. Notice of the request must be given to all identified participants or parties by the person seeking incorporation.
- b) The Board will give the incorporated matter the appropriate weight in light of the following factors: the standard of evidence under which the material was previously presented to the Board; the present purpose for incorporating the material; and the past and current opportunity for cross-examination of the matters asserted within the incorporated material.

(Source: Amended at 38 Ill. Reg. —\_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION**

**Section 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings**

- a) **Appearances.** A person who is a party in a Board adjudicatory proceeding may appear as follows:
  - 1) Individuals may appear on their own behalf or through an attorney-at-law licensed and registered to practice law. (Section 1 of the Attorney Act [705 ILCS 205/1])
  - 2) When appearing before the Board, any person other than individuals must appear through an attorney-at-law licensed and registered to practice law. (Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS 220/1] and Section 1 of the Attorney Act [705 ILCS 205/1])
  - 3) Attorneys who are licensed to practice in a state other than Illinois and who are not licensed and registered to practice in the State of Illinois may

request to appear pro hac vice on a particular matter on a motion filed with the Board.

- 4) Any attorney appearing in a representative capacity must file a separate written notice of appearance with the Clerk, together with ~~documentation-proof~~ documentationproof of service and notice of filing of the appearance on all parties in the proceeding. Law firms, the Agency, and the Attorney General's Office when appearing before the Board must designate a lead attorney for purposes of phone and mail contact pertaining to the proceeding. Absent a separate written notice, the Board will designate the attorney whose signature appears first on the complaint as the lead attorney.
- 5) Any person appearing before the Board may appear in a special limited capacity to contest jurisdiction.
  - b) Withdrawals. An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation must file a notice of withdrawal with the Clerk, together with ~~documentation-proof~~ documentationproof of service and notice of filing on all parties or their representatives.
  - c) Substitution. Any attorney who substitutes for an attorney of record must file a written appearance pursuant to subsection (a) of this Section. That appearance must identify the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from a proceeding until a formal withdrawal is filed in accordance with subsection (b) of this Section.
  - d) Any person may appear on behalf of himself or others in a rulemaking proceeding in accordance with 35 Ill. Adm. Code 102.100(b).

(Source: Amended at 38 Ill. Reg.   —  , effective   —  )

## SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

### Section 101.902 Motions for Reconsideration

In ruling upon a motion for reconsideration, the Board will consider factors including new evidence, or a change in the law, to conclude that the Board's decision was in error. (See also Section 101.520 of this Part.) A motion for reconsideration of a final Board order is not a prerequisite for the appeal of the final Board order.

(Source: Amended at 38 Ill. Reg.   —  , effective   —  )

**Section 101.904 Relief from and Review of Final Opinions and Orders**

- a) Upon its own motion or motion of any party, the Board may correct clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission. The mistakes may be so corrected by the Board before the appeal is docketed in the appellate court. Thereafter, while the appeal is pending, the mistakes may be corrected only with leave of the appellate court. Any corrected order will be mailed to all parties and participants in that proceeding.
- b) On written motion, the Board may relieve a party from a final order entered in a contested proceeding, for the following:
  - 1) Newly discovered evidence that existed at the time of hearing and that by due diligence could not have been timely discovered;
  - 2) Fraud (whether intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; or
  - 3) Void order, such as an order based upon jurisdictional defects.
- c) A motion under this Section does not affect the finality of a Board order or suspend the operation of a Board order. The motion must be filed in the same proceeding in which the order was entered but is not a continuation of the proceeding. The motion must be supported by oath or affidavit or other appropriate showing as to matters not of record. All parties or participants in the proceeding must be notified by the movant as provided by Section 101.304 of this Part.
- d) A motion under subsection (b) of this Section must be filed with the Board within one year after entry of the order except that a motion pursuant to subsection (b)(3) of this Section must be filed within a reasonable time after entry of the order.
- e) Any response to a motion under this Section must be filed within 14 days after the filing of the motion.
- f) A motion for reconsideration of a final Board order is not a prerequisite for the appeal of that final Board order.

(Source: Amended at 38 Ill. Reg. —, effective \_\_\_\_\_)

**Section 101.906 Judicial Review of Board Orders**

- a) Pursuant to Sections 29 and 41 of the Act [415 ILCS 5/~~29,29~~ and 41] and, and

Supreme Court Rule 335, and Section 10-50 of the IAPA, judicial review of final Board orders is available from the appellate court. However, pursuant to Section 11-60 of the Property Tax Code [35 ILCS 200/11-60], judicial review of final Board orders in tax certification proceedings is available from the circuit court. .

- b) For purposes of judicial review, final Board orders are appealable as of the date of service by the Board upon the appealing party.
- c) The procedure for stay of any final Board order during appeal will be as provided in Rule 335 of the Rules of the Supreme Court of Illinois (Ill. S. Ct. Rule 335).

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

##### **Section 101.1000 Electronic Filing and E-Mail Service**

- a) The Board provides the opportunity to file and access documents electronically through its Clerk's Office On-Line (COOL). COOL is located on the Board's website ([www.ipcb.state.il.us](http://www.ipcb.state.il.us) ~~www.ipcb.state.il.us~~). The Board has taken steps designed to ensure the integrity and security of COOL in accordance with State policies developed under the Electronic Commerce Security Act [5 ILCS 175].
- b) To file an electronic document with the Board, a person must upload the document on COOL. Electronic filing is not accomplished by sending a document to the e-mail address of the Clerk or hearing officer.
- c) Except as provided in ~~Sections~~Section 101.302(h)(2), (h)(3), and (h)(4) of this Part and Section 101.1050 of this Subpart, all documents may be filed through COOL. If a person files an electronic document in accordance with this Subpart, the person is not required to file a paper original or copy of that document. However, as provided in ~~Sections~~Section 101.302(h)(2), (h)(3), and (h)(4) of this Part and Section 101.1050 of this Subpart, some original documents must be filed in paper and other documents are prohibited from being filed electronically.
- d) Nothing in this Subpart requires a person to file a document electronically. Generally, the Clerk's Office will convert paper-filed documents into electronic documents and place them on COOL.
- e) All documents filed with the Board may be served by e-mail except for enforcement complaints, administrative citations, and EMSA statements of deficiency. (See Section 101.304(c) of this Part and Section 101.1060 of this

Subpart.) Nothing in this Subpart requires a person to serve a document by e-mail or to accept service of a document by e-mail.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 101.1010 Electronic Filing Authorization and Signatures**

- a) A person seeking to upload a document on COOL for filing must have been issued a State of Illinois digital signature certificate pursuant to Section 15-310 of the Electronic Commerce Security Act. (See 5 ILCS 175/15-310.) A link to the subscriber agreement and application for a State of Illinois digital signature certificate is available through COOL.
  - 1) Maintaining digital signature confidentiality is the responsibility of the holder of the digital signature certificate. The certificate holder is responsible for any document electronically filed by anyone using his or her digital signature certificate.
  - 2) The digital signature certificate holder is responsible for keeping his or her contact information current.
- b) Each electronic document uploaded on COOL for filing must bear a facsimile electronic signature (i.e., scanned image of original pen-and-ink signature) or typographical electronic signature (i.e., "/s/ typed name"/) of the person authorizing the filing (e.g., attorney, participant, pro se party). However, if this electronic signature is absent, the document will be deemed to have been signed by the holder of the digital signature certificate used to upload the document and the certificate holder will be deemed to have authorized the filing. (See 5 ILCS 175/5-120.) To file an electronic document on behalf of another person in an adjudicatory proceeding, an electronic signature of a licensed and registered attorney is required. (See Section 101.400(a) of this Part.)
- c) If an electronic document or portion thereof requires the signatures of any ~~person~~persons in addition to those specified in subsection (b) of this Section (e.g., settlement agreement, witness<sup>2</sup>, affidavit), the person authorizing the filing must:
  - 1) Confirm that the additional persons have approved the document or corresponding portion thereof and obtain their original pen-and-ink signatures before the document is uploaded on COOL for filing;
  - 2) Ensure that the document or corresponding portion thereof bears the facsimile electronic signatures of, and indicates the identity of, the additional persons;



- 3) Upload the document on COOL as a scanned image containing the necessary signatures; and
- 4) Retain the paper original of the document, including the original pen-and-ink signatures of the additional persons, for one year after the later of the following:
  - A) The date on which the time period expires for appealing the final order of the Board; or
  - B) If the final order of the Board is appealed, the date on which the time period expires for seeking any further review in the courts.
- d) In lieu of complying with subsection (c) of this Section, the person authorizing the filing may file the paper original of the document, including the original pen-and-ink signatures of the additional persons, and separately file the document through COOL without the facsimile electronic signatures of the additional persons (see Section 101.1020(e)(2) of this Subpart).

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 101.1020 Filing Electronic Documents**

- a) COOL. To file an electronic document through COOL, the document must first be uploaded on COOL.
- b) Digital Signature Certificate. Uploading a document on COOL requires a valid State of Illinois digital signature certificate.
- c) Uploading Hours. Electronic documents may be uploaded on COOL ~~twenty-four~~24 hours per day, every day.
- d) E-Mail Receipt. Uploading a document on COOL will generate an e-mail receipt for the digital signature certificate holder. The receipt will verify the date and time when the document was uploaded on COOL.
- e) Time of Filing. Subject to subsection (f) of this Section, an electronic document uploaded on COOL will be considered filed as of the date and time specified on the e-mail receipt generated pursuant to subsection (d) of this Section, except that:

- 1) A document uploaded on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is deemed filed the next business day.
  - 2) A document uploaded without one or more portions of the filing (e.g., oversized exhibit; trade secret or non-disclosable information; copyrighted document proposed for incorporation by reference in a rule) or without a required oath, affidavit, notarization, signature, or filing fee is considered filed:
    - A) On the date that the Clerk receives the document's last missing item; or
    - B) On the postmark date of the document's last missing item if that item was sent by U.S. Mail, was received after the date of a filing deadline, and has a postmark date that precedes or is the same as the deadline date.
  - 3) A document consisting of multiple electronic files is considered filed as of the date and time specified on the e-mail receipt generated pursuant to subsection (d) of this Section for the last file uploaded to complete the document.
- f) Review by the Clerk. The Clerk will review electronically each document uploaded on COOL, validate the proceeding information provided, and accept or reject the document for filing.
- 1) If the Clerk accepts an uploaded document, the Clerk's Office will e-mail a notice of acceptance to the digital signature certificate holder, indicating that the filed document may be viewed on COOL.
  - 2) If the Clerk rejects an uploaded document, the Clerk's Office will e-mail a notice of rejection to the digital signature certificate holder. The Clerk may reject an uploaded document because the document is prohibited from being filed electronically pursuant to Section 101.302(h)(3) or (h)(4) of this Part, the document fails to comply with file size or naming requirements of Section 101.1030(c) of this Subpart, or the document is corrupted or otherwise cannot be readily opened. If an uploaded document is rejected by the Clerk, the Board may, upon good cause shown, enter an order deeming the document filed as of the date and time specified when the document was uploaded on COOL, subject to subsections (e)(1) through (e)(3) of this Section.

- g) **Technical Failure.** If an electronic document is not uploaded, or is materially delayed in uploading, on COOL due to a technical failure, the Board may, upon good cause shown, enter an order deeming the document uploaded pursuant to subsection (d) of this Section as of the date and time of the first attempted uploading. **“Technical failure”** as used in this subsection is limited to a system outage of COOL or other malfunction of the hardware, software, or telecommunications facilities of the Board or the Board's electronic filing provider. **“Technical failure”**, therefore, does not include any malfunction of the equipment used by the person authorizing the filing or the digital signature certificate holder.
  
- h) **Clerk's Electronic Stamp.** An electronic document uploaded on COOL and accepted by the Clerk for filing will be endorsed by the Clerk with a file stamp setting forth the date of filing. This file stamp will be merged with the electronic document and visible when the document is viewed on COOL. Electronically filed documents so endorsed have the same legal effect as paper documents file-stamped by the Clerk conventionally in accordance with Section 101.300(b) of this Part.
  
- ~~i) i)~~ **Decision Deadlines.** For purposes of Board decision deadlines, the decision period does not begin until the date on which the electronic document constituting the initial filing is considered filed under this Section.
  
- j) **Filing Deadlines.** The electronic filing of a document does not alter any applicable filing deadlines. \_\_

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 101.1030 Form of Electronic Documents for Filing**

- a) In addition to complying with the formatting requirements of ~~Sections~~Section 101.302(g) and (j) of this Part, electronic documents uploaded on COOL for filing must be in one of the following electronic formats:
  - 1) Adobe Portable Document Format (PDF), version 2.0 or greater;
  - 2) Microsoft Word for Windows, version 6.0 or greater;
  - 3) Corel WordPerfect for Windows, version 6.0 or greater; or
  - 4) Microsoft Excel for Windows, version 4.0 or greater.

- b) Generally, electronic documents filed in accordance with this Subpart will be posted to COOL by the Clerk's Office in text searchable Adobe PDF. When practicable, persons should:
- 1) Upload their electronic documents on COOL in text searchable Adobe PDF; and
  - 2) Convert their electronic documents to a text searchable Adobe PDF directly from the program used to create the document, rather than from a scanned image of the paper document. -
- c) No single electronic file uploaded on COOL, whether constituting all or part of an electronic document, may contain more than 10 megabytes (MB) of data. To comply with this requirement, an electronic document may be divided into parts and submitted as multiple electronic files, each file being 10 MB or less. The person authorizing the filing is responsible for dividing the document into appropriately-sized files and naming each file to reflect its place within the electronic document.
- d) Multiple electronic documents, whether for the same proceeding or different proceedings, must be uploaded separately on COOL and, therefore, must not be combined into a single electronic file for filing through COOL.
- e) Electronic documents may contain links to material external to the filed document. However, links to external material are for convenience purposes only. The external material behind the link is not considered part of the filing or the record of the proceeding in which the document was filed.
- f) All documents uploaded on COOL must be free of viruses or other harmful processes. If an electronic document containing a virus or other harmful process is uploaded on COOL, the Board may, consistent with ~~Sections~~[Section](#) 101.800(b) and (c) of this Part, impose sanctions, including barring the document from being filed in any manner and barring the person authorizing the filing or the digital signature certificate holder from any further electronic filing through COOL.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective     \_\_\_\_\_)

#### **Section 101.1040 Filing Fees**

- a) Filing fees are specified in Section 101.302(e) of this Part. The Clerk's Office imposes no additional fee to file a document electronically.

- b) A person seeking to file an electronic document that requires a filing fee must either:
- 1) Pay the fee with a valid credit card through COOL when the document is uploaded on COOL; or
  - 2) Deliver payment to the Clerk's Office in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1050 Documents Required in Paper or Excluded from Electronic Filing**

- a) The following documents must be filed in paper pursuant to Section 101.302(h)(2) of this Part:
- 1) The original Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification);
  - 2) The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility);
  - 3) The original local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting); and
  - 4) An original oversized exhibit (see Section 101.302(j) of this Part).
- b) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code ~~130~~130, is prohibited from being filed electronically and must instead be filed only in paper pursuant to Section 101.302(h)(3) of this Part. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.
- c) If a rulemaking proposal contains a document that is protected by copyright law ~~[(17 USC 101 et seq.)]~~ and proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference, that copyrighted document is prohibited from being filed electronically and must instead be filed only in paper pursuant to Section 101.302(h)(4) of this Part. The remainder of the rulemaking proposal may be filed through COOL.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1060 E-Mail Service**

- a) Except as provided in subsection (b) of this Section, a person required to serve a document may serve the document by e-mail, in lieu of serving a paper document, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070 of this Subpart.) To serve a document by e-mail, it is not necessary to electronically file the document or to obtain a State of Illinois digital signature certificate.
- b) Service of enforcement complaints, administrative citations, and EMSA statements of deficiency on a respondent must be made personally, by registered or certified mail, or by messenger service. (See Section 101.304(c) of this Part.)
- c) A person required to serve a document on the hearing officer may serve the hearing officer by sending the document to the hearing officer's e-mail address in lieu of serving a paper document.
- d) When a document is served by e-mail, service is considered complete on the date of successful e-mail transmission, except that a document successfully e-mailed on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is deemed served the next business day.
- e) When a document is served by e-mail, documentation of service must be filed with the Clerk and served on all persons entitled to service in that proceeding. A sample form of affidavit or certificate of e-mail service is available in Appendix H to this Part. An affidavit or certificate of e-mail service must be filed with the document in question and include the following:
  - 1) The e-mail address of the recipient and the person authorizing the filing;
  - 2) The number of pages in the e-mail transmission;
  - 3) A statement that the document was served by e-mail; and
  - 4) The date and time of the e-mail transmission.
- f) If any computer malfunction precludes the e-mail service of a document, the person authorizing the filing must promptly serve the document in paper pursuant to Section 101.304(c) of this Part.

- g) Except for final orders of the Board, which the Clerk's Office serves in paper, the Clerk's Office may serve Board orders and hearing officer orders by e-mail, in lieu of serving paper documents, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070 of this Subpart.) The Clerk will record the date and time of e-mail service, consistent with subsection (e) of this Section.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.1070 Consenting to Receipt of E-Mail Service**

- a) In any proceeding, a person may consent to e-mail service of documents in lieu of receiving paper documents by filing a "Consent to Receipt of E-Mail Service" with the Clerk's Office. A sample form of consent is available in Appendix I of this Part.
- b) Consent to e-mail service may be filed with the Clerk's Office at any time during the proceeding. To accept e-mail service, it is not necessary to obtain a State of Illinois digital signature certificate.
- c) A person's consent to receiving e-mail service may be revoked by that person at any time during the proceeding upon the person's filing of a notice of the revocation with the Clerk's Office.
- d) Upon a change in the e-mail address of a recipient of e-mail service, the recipient must file a notice of the e-mail address change with the Clerk's Office for each proceeding in which the person has consented to e-mail service.

(Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 101.APPENDIX E Affidavit or Certificates ~~of Of of Of~~ Service

Section 101.ILLUSTRATION A Service by Non-Attorney

~~AFFIDAVIT PROOF~~AFFIDAVITPROOF OF SERVICE

I, the undersigned, on oath [or affirmation] state that I have served on the date of \_\_\_\_\_, the attached [describe document served], by [describe method of service], upon the following persons:

~~{~~[(list persons served and the respective ~~addresses~~address at which they were served)]

[signature]

~~{signature}~~

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

~~SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.~~

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Public

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



Section 101.APPENDIX E Affidavit or Certificates ~~of Of of Of~~ Service

Section 101.ILLUSTRATION B Service ~~by By by By~~ Attorney

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached [describe document served], by [describe method of service], upon the following persons:

[(list of persons served and the respective addresses at which they were served)]

[signature]

[Date]date]

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1 TITLE 35: ENVIRONMENTAL PROTECTION  
2 SUBTITLE A: GENERAL PROVISIONS  
3 CHAPTER 1: 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	<u>101.111</u>	<u>Informal Recordings of Board Meetings</u>
18	101.112	Bias and Conflict of Interest
19	101.114	Ex Parte Communications

20  
21 SUBPART B: DEFINITIONS  
22

23	Section	
24	101.200	Definitions Contained in the Act
25	101.202	Definitions for Board's Procedural Rules

26  
27 SUBPART C: COMPUTATION OF TIME, FILING, SERVICE  
28 OF DOCUMENTS, AND STATUTORY DECISION DEADLINES  
29

30	Section	
31	101.300	Computation of Time
32	101.302	Filing of Documents
33	101.304	Service of Documents
34	101.306	Incorporation of Documents <del>from Another Proceeding by Reference</del>
35	101.308	Statutory Decision Deadlines and Waiver of Deadlines

36  
37 SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION  
38

39	Section	
40	101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings
41		
42	101.402	Intervention of Parties
43	101.403	Joinder of Parties



- 44 101.404 Agency as a Party in Interest
- 45 101.406 Consolidation of Claims
- 46 101.408 Severance of Claims

47  
48  
49

SUBPART E: MOTIONS

50 Section

- 51 101.500 Filing of Motions and Responses
- 52 101.502 Motions Directed to the Hearing Officer
- 53 101.504 Contents of Motions and Responses
- 54 101.506 Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
- 55 101.508 Motions to Board Preliminary to Hearing
- 56 101.510 Motions to Cancel Hearing
- 57 101.512 Motions for Expedited Review
- 58 101.514 Motions to Stay Proceedings
- 59 101.516 Motions for Summary Judgment
- 60 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders
- 61 101.520 Motions for Reconsideration
- 62 101.522 Motions for Extension of Time

63  
64  
65

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

66 Section

- 67 101.600 Hearings
- 68 101.602 Notice of Board Hearings
- 69 101.604 Formal Board Transcript
- 70 101.606 Informal Recordings of the Proceedings
- 71 101.608 Default
- 72 101.610 Duties and Authority of the Hearing Officer
- 73 101.612 Schedule to Complete the Record
- 74 101.614 Production of Information
- 75 101.616 Discovery
- 76 101.618 Admissions
- 77 101.620 Interrogatories
- 78 101.622 Subpoenas and Depositions
- 79 101.624 Examination of Adverse, Hostile or Unwilling Witnesses
- 80 101.626 Information Produced at Hearing
- 81 101.628 Statements from Participants
- 82 101.630 Official Notice
- 83 101.632 Viewing of Premises

84  
85  
86

SUBPART G: ORAL ARGUMENT

87 Section  
 88 101.700 Oral Argument

89  
 90 SUBPART H: SANCTIONS

91  
 92 Section  
 93 101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing  
 94 Officer Orders  
 95 101.802 Abuse of Discovery Procedures

96  
 97 SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

98  
 99 Section  
 100 101.902 Motions for Reconsideration  
 101 101.904 Relief from ~~and Review of~~ Final Opinions and Orders  
 102 101.906 Judicial Review of Board Orders  
 103 101.908 Interlocutory Appeal

104  
 105 SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

106  
 107 Section  
 108 101.1000 Electronic Filing and E-Mail Service  
 109 101.1010 Electronic Filing Authorization and Signatures  
 110 101.1020 Filing Electronic Documents  
 111 101.1030 Form of Electronic Documents for Filing  
 112 101.1040 Filing Fees  
 113 101.1050 Documents Required in Paper or Excluded from Electronic Filing  
 114 101.1060 E-Mail Service  
 115 101.1070 Consenting to Receipt of E-Mail Service

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 117 101.APPENDIX A Captions  
 118 101.ILLUSTRATION A Enforcement Case  
 119 101.ILLUSTRATION B Citizen's Enforcement Case  
 120 101.ILLUSTRATION C Variance  
 121 101.ILLUSTRATION D Adjusted Standard Petition  
 122 101.ILLUSTRATION E Joint Petition for an Adjusted Standard  
 123 101.ILLUSTRATION F Permit Appeal  
 124 101.ILLUSTRATION G Underground Storage Tank Appeal  
 125 101.ILLUSTRATION H Pollution Control Facility Siting Appeal  
 126 101.ILLUSTRATION I Administrative Citation  
 127 101.ILLUSTRATION J General Rulemaking  
 128 101.ILLUSTRATION K Site-specific Rulemaking  
 129 101.APPENDIX B Appearance Form

130 101.APPENDIX C Withdrawal of Appearance Form  
 131 101.APPENDIX D Notice of Filing  
 132 101.APPENDIX E Affidavit or Certificate of Service  
 133 101.ILLUSTRATION A Service by Non-Attorney  
 134 101.ILLUSTRATION B Service by Attorney  
 135 101.APPENDIX F Notice of Withdrawal (Repealed)  
 136 101.APPENDIX G Comparison of Former and Current Rules (Repealed)  
 137 101.APPENDIX H Affidavit or Certificate of E-Mail Service  
 138 101.ILLUSTRATION A E-Mail Service by Non-Attorney  
 139 101.ILLUSTRATION B E-Mail Service by Attorney  
 140 101.APPENDIX I Consent to Receipt of E-Mail Service

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 142  
 143 AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40,  
 144 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26,  
 145 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26  
 146 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce  
 147 Security Act [5 ILCS 175/25-101].

148  
 149 SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part  
 150 repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in  
 151 R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg.  
 152 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill.  
 153 Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8,  
 154 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-  
 155 17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566,  
 156 effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012;  
 157 amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 38 Ill.  
 158 Reg. \_\_\_\_\_, effective \_\_\_\_\_

159  
 160 SUBPART A: GENERAL PROVISIONS

161  
 162 **Section 101.110 Public Participation**

- 163  
 164 a) General. The Board encourages public participation in all of its proceedings. The  
 165 extent to which the law allows for the participation varies, depending on the type  
 166 of Board proceeding involved, the party status of the person or persons seeking to  
 167 participate, and the rules governing that type of proceeding. Public participation  
 168 in particular proceedings may be more specifically delineated by Board or hearing  
 169 officer order consistent with the provisions of applicable law and the Board's  
 170 procedural rules. (See Sections 101.114 and 101.628 of this Part.)  
 171  
 172 b) Party/Non-Party Status. The issue of who constitutes a proper party in each type

173 of adjudicatory proceeding before the Board is addressed in the rules. A person  
 174 who wishes to participate in a Board adjudicatory proceeding and is not a party  
 175 will be deemed a participant and will have only those rights specifically provided  
 176 in these rules. A person who wishes to participate in a Board regulatory  
 177 proceeding will be deemed a participant and will have only those rights  
 178 specifically provided in these rules.

179  
 180 c) Amicus Curiae Briefs. Amicus curiae briefs may be filed in any adjudicatory  
 181 proceeding by any interested person, provided permission is granted by the Board.  
 182 Response briefs may be allowed by permission of the Board, but not as of right.  
 183 The briefs must consist of argument only and may not raise facts that are not in  
 184 evidence in the relevant proceeding. Amicus curiae briefs, and any responses,  
 185 will be considered by the Board only as time allows. The briefs will not delay  
 186 decision-making of the Board. (See also Section 101.302(k) of this Part.)  
 187

188 d) Public Remarks. During the time period designated for public remarks at a Board  
 189 meeting, any person physically present at the meeting, once recognized by the  
 190 Chairman, may make public remarks to the Board concerning a proceeding listed  
 191 on that meeting's agenda.  
 192

193 1) Sign-In Sheet. Beginning at least 15 minutes before the scheduled start of  
 194 each Board meeting, a public remarks sign-in sheet will be available to the  
 195 public at the meeting. Anyone who wishes to make public remarks at the  
 196 meeting must provide the following information on the sign-in sheet:  
 197

198 A) Full name;

199 B) Any person he or she is representing; and

200 C) The docket number of the proceeding on which he or she would  
 201 like to make public remarks.  
 202

203  
 204  
 205 2) Time Limits. A time period of up to 30 minutes at the beginning of each  
 206 Board meeting, as designated on the meeting agenda, is reserved for  
 207 public remarks. The Chairman may extend the duration of the public  
 208 remarks portion of the meeting as necessary to accommodate persons who  
 209 signed in pursuant to subsection (d)(1) of this Section. A person's public  
 210 remarks on a given proceeding must not exceed five minutes in length, but  
 211 this time period may be extended with the Chairman's permission.  
 212

213 3) Nature of Public Remarks. Public remarks are not made under oath or  
 214 affirmation and are not subject to cross-examination. Public remarks that  
 215 are relevant to the proceeding for which they are made may be considered

216 by the Board, but factual statements made during public remarks do not  
217 constitute evidence in the proceeding. The public remarks portion of a  
218 Board meeting is not a hearing and cannot be used to offer documentary or  
219 other physical evidence to the Board. The Chairman may direct persons to  
220 cease public remarks that are irrelevant, repetitious, or disruptive. Persons  
221 engaging in disorderly conduct may be asked by the Chairman to leave the  
222 meeting.

- 223  
224 4) Transcription. The Board will arrange for public remarks to be  
225 transcribed. Transcripts of public remarks will be made a part of the  
226 record of the proceeding to which the remarks correspond. (See 5 ILCS  
227 120/2.06(g).)

228  
229 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
230

231 **Section 101.111 Informal Recordings of Board Meetings**

232  
233 Any person may record a Board meeting by tape, film, or any other means if the recording  
234 process does not interfere with the conduct or decorum of the Board meeting. The Chairman  
235 may direct any person who is recording a Board meeting to limit or discontinue the recording if  
236 the recording process interferes with the conduct or decorum of the Board meeting.

237  
238 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
239

240 SUBPART B: DEFINITIONS

241  
242 **Section 101.202 Definitions for Board's Procedural Rules**

243  
244 Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a  
245 word or term is clear from the context, the following definitions also apply to the Board's  
246 procedural rules, found in 35 Ill. Adm. Code 101 through 130:

247  
248 "Act" means the Environmental Protection Act [415 ILCS 5/1].  
249

250 "Adjudicatory proceeding" means an action of a quasi-judicial nature brought  
251 before the Board pursuant to authority granted to the Board under Section 5(d) of  
252 the Act or as otherwise provided by law. Adjudicatory proceedings include  
253 enforcement, variance, permit appeal, pollution control facility siting appeal,  
254 Underground Storage Tank (UST) Fund determination, water well set back  
255 exception, adjusted standard, and administrative citation proceedings.  
256 Adjudicatory proceedings do not include regulatory, quasi-legislative, or  
257 informational proceedings.  
258

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

263  
264 "Administrative citation" or "AC" means a citation issued pursuant to Section  
265 31.1 of the Act by the Agency, or by a unit of local government acting as the  
266 Agency's delegate pursuant to Section 4(r) of the Act.

267  
268 "Administrative citation review-~~(appeal)~~" or "administrative citation appeal"  
269 means a petition for review of an administrative citation filed pursuant to Section  
270 31.1(d) of the Act. (See 35 Ill. Adm. Code 108.)

271  
272 "Affidavit" means a sworn, signed statement witnessed by a notary public.

273  
274 "Affidavit of service" means an affidavit that states that service of a document  
275 upon specified persons was made, and the manner in which, and date upon which,  
276 service was made.

277  
278 "Agency" means the Illinois Environmental Protection Agency as established by  
279 Section 4 of the Act.

280  
281 "Agency recommendation" means the document filed by the Agency pursuant to  
282 Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its  
283 recommended disposition of a petition for variance or an adjusted standard. This  
284 includes a recommendation to deny, or a recommendation to grant with or without  
285 conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

286  
287 "Amicus curiae brief" means a brief filed in a proceeding by any interested person  
288 who is not a party. (See Sections 101.110 and 101.628 of this Part.)

289  
290 "Applicant" means any person who submits, or has submitted, an application for a  
291 permit or for local siting approval pursuant to any of the authorities to issue  
292 permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of  
293 the Act.

294  
295 "Article" means *any object, material, device or substance, or whole or partial*  
296 *copy thereof, including any writing, record, document, recording, drawing,*  
297 *sample, specimen, prototype, model, photograph, culture, microorganism,*  
298 *blueprint or map* [415 ILCS 5/7.1].

299  
300 "Attorney General" means the Attorney General of the State of Illinois or  
301 representatives thereof.



302  
303 "Authorized representative" means any person who is authorized to act on behalf  
304 of another person.  
305  
306 "Board" means the Illinois Pollution Control Board as created in Section 5 of the  
307 Act or, if applicable, its designee.  
308  
309 "Board decision" means an opinion or an order voted in favor of by at least three  
310 members of the Board at an open Board meeting except in a proceeding to remove  
311 a seal under Section 34(d) of the Act.  
312  
313 "Board designee" means an employee of the Board who has been given authority  
314 by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk  
315 of the Board, or hearing officer).  
316  
317 "Board meeting" means an open meeting held by the Board pursuant to Section  
318 5(a) of the Act in which the Board makes its decisions and determinations.  
319  
320 "Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm.  
321 Code 101 through 130.  
322  
323 "Brief" means a written statement that contains a summary of the facts of a  
324 proceeding, the pertinent laws, and an argument of how the law applies to the  
325 facts supporting a position.  
326  
327 "CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of  
328 the Act.  
329  
330 "Certificate of acceptance" means a certification, executed by a successful  
331 petitioner in a variance proceeding, in which the petitioner agrees to be bound by  
332 all terms and conditions that the Board has affixed to the grant of variance.  
333  
334 "Chairman" means the Chairman of the Board designated by the Governor  
335 pursuant to Section 5(a) of the Act.  
336  
337 "Citizen's enforcement proceeding" means an enforcement action brought before  
338 the Board pursuant to Section 31(d) of the Act by any person who is not  
339 authorized to bring the action on behalf of the People of the State of Illinois.  
340  
341 "Clean Air Act" or "CAA" means the federal *Clean Air Act, as now and hereafter*  
342 *amended, 42 USC 7401 et seq. [415 ILCS 5/39.5]*  
343  
344 "Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.

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"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory and regulatory proceedings. COOL is located on the Board's website.

"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 date of 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,*

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*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.

"Digital signature" means a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105]

"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.

"DNR" means the Illinois Department of Natural Resources.

"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.

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies [5 ILCS 175/5-105].

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic document [5 ILCS 175/5-105].

"Environmental Management System Agreement" or "EMSA" means the

431 agreement between the Agency and a sponsor, entered into under Section 52.3 of  
432 the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental  
433 measures to be implemented, schedules to attain goals, and mechanisms for  
434 accountability.

435  
436 "Enforcement proceeding" means an adjudicatory proceeding brought upon a  
437 complaint filed pursuant to Section 31 of the Act by the Attorney General, State's  
438 Attorney, or other persons, in which the complaint alleges violation of the Act,  
439 any rule or regulation adopted under the Act, any permit or term or condition of a  
440 permit, or any Board order.

441  
442 "Ex parte communication" means *any written or oral communication by any*  
443 *person that imparts or requests material information or makes a material*  
444 *argument regarding potential action concerning regulatory, quasi-adjudicatory,*  
445 *investment, or licensing matters pending before or under consideration by the*  
446 *Board. "Ex parte communication" does not include the following:*

447  
448 *statements by a person publicly made in a public forum, including*  
449 *pleadings, transcripts, ~~and~~ public comments, and public remarks made part*  
450 *of the proceeding's record [5 ILCS 430/5-50(b)(i)];*

451  
452 *statements regarding matters of procedure and practice, such as format ,*  
453 *the number of copies required, the manner of filing, and the status of a*  
454 *matter [5 ILCS 430/5-50(b)(ii)]; and*

455  
456 *statements made by a State employee of the Board to Board members or*  
457 *other employees of the Board: [5 ILCS 430/5-50(b)(iii)]. For purposes of*  
458 *this definition, "Board employee" means a person the Board employs on a*  
459 *full-time, part-time, contract or intern basis. (See Section 101.114 of this*  
460 *Part.)*

461  
462 "Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant  
463 to Section 28.5 of the Act.

464  
465 "Federally required rule" means *a rule that is needed to meet the requirements of*  
466 *the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including*  
467 *required submission of a State Implementation Plan), or Resource Conservation*  
468 *and Recovery Act, other than a rule required to be adopted under subsection (c)*  
469 *of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or*  
470 *subsection (a) of Section 22.40 [415 ILCS 5/28.2].*

471  
472 "Filing" means the act of delivering a document or article into the custody of the  
473 Clerk with the intention of incorporating that document or article into the record

474 of a proceeding before the Board. The Clerk's Office is located at 100 West  
475 Randolph Street, Suite 11-500, Chicago, IL 60601. Electronic filing is done  
476 through COOL on the Board's website.

477  
478 "Final order" means an order of the Board that terminates the proceeding leaving  
479 nothing further to litigate or decide and that is subject to judicial review~~appealable~~  
480 ~~to an appellate court pursuant to Section 41 of the Act.~~ (See Subpart I of this  
481 Part.)

482  
483 "Frivolous" means a request for relief that the Board does not have the authority  
484 to grant, or a complaint that fails to state a cause of action upon which the Board  
485 can grant relief.

486  
487 "Hearing" means a public proceeding conducted by a hearing officer where the  
488 parties and other interested persons, as provided for by law and the Board's  
489 procedural rules, present evidence and argument regarding their positions.

490  
491 "Hearing officer" means a person licensed to practice law in the State of Illinois  
492 who presides over hearings and otherwise carries out record development  
493 responsibilities as directed by the Board.

494  
495 "IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

496  
497 "Identical-in-substance rules" or "identical-in-substance regulations" means *State*  
498 *regulations which require the same actions with respect to protection of the*  
499 *environment, by the same group of affected persons, as would federal regulations*  
500 *if USEPA administered the subject program in Illinois [415 ILCS 5/7.2].*

501  
502 "Initial filing" means the filing that initiates a Board proceeding and opens a  
503 docket. For instance, the initial filing in an enforcement proceeding is the  
504 complaint; in a permit appeal it is a petition for review; and in a regulatory  
505 proceeding it is the proposal.

506  
507 "Innovative environmental measures" means any procedures, practices,  
508 technologies or systems that pertain to environmental management and are  
509 expected to improve environmental performance when applied. (See 35 Ill. Adm.  
510 Code 106.Subpart G.)

511  
512 "Inquiry hearing" means a hearing conducted by the Board for the purpose of  
513 seeking input and comment from the public regarding the need for a rulemaking  
514 proceeding in a specific area.

515  
516 "Interlocutory appeal" means an appeal of a Board decision to the appellate court

517 that is not dispositive of all the contested issues in the proceeding. (See Section  
518 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing  
519 officer ruling to the Board. (See Section 101.518 of this Part.)  
520

521 "Intervenor" means a person, not originally a party to an adjudicatory proceeding,  
522 who voluntarily participates as a party in the proceeding with the leave of the  
523 Board. (See Section 101.402 of this Part.)  
524

525 "Intervention" means the procedure by which a person, not originally a party to an  
526 adjudicatory proceeding, voluntarily comes into the proceeding as a party with the  
527 leave of the Board. (See Section 101.402 of this Part.)  
528

529 "JCAR" means the Illinois General Assembly's Joint Committee on  
530 Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).  
531

532 "Joinder" means the procedure by which the Board adds a person, not originally a  
533 party to an adjudicatory proceeding, as a party to the proceeding. (See Section  
534 101.403 of this Part and 35 Ill. Adm. Code 103.206.)  
535

536 "Misnomer" means a mistake in name, giving an incorrect name in a complaint or  
537 other document with respect to any properly included party.  
538

539 "Motion" means a request made to the Board or the hearing officer for the  
540 purposes of obtaining a ruling or order directing or allowing some act to be done  
541 in favor of the movant. (See definition of "movant" in this Section.)  
542

543 "Movant" means the person who files a motion.  
544

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

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

556 "Notice list" means the list of persons in a regulatory proceeding who will receive  
557 all Board opinions and orders and all hearing officer orders. Persons on a notice  
558  
559

560 list generally do not receive copies of motions, public comments, or testimony.  
561 (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code  
562 102.422.)

563  
564 "Notice to reinstate" means a document filed that recommences the decision  
565 period after a decision deadline waiver has been filed. The notice will give the  
566 Board a full decision period in which to make a decision. (See Section 101.308 of  
567 this Part.)

568  
569 "Oral argument" means a formal verbal statement of advocacy on a proceeding's  
570 legal questions made at a Board meeting with the Board's permission. (See  
571 Section 101.700 of this Part.)

572  
573 "OSFM" means Office of the State Fire Marshal.

574  
575 "OSFM appeal" means an appeal of an OSFM final decision concerning  
576 eligibility and deductibility made pursuant to Title XVI of the Act.

577  
578 "Participant" means any person, not including the Board or its staff, who takes  
579 part in an adjudicatory proceeding who is not a party, or a person who takes part  
580 in a regulatory or other quasi-legislative proceeding before the Board. A person  
581 becomes a participant in any of several ways, including filing a comment, being  
582 added to the notice list of a particular proceeding, ~~or~~ testifying at hearing, or  
583 making public remarks at a Board meeting.

584  
585 "Participant in a CAAPP Comment Process" means a person who takes part in a  
586 Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or  
587 comments on a draft CAAPP permit.

588  
589 "Party" means the person by or against whom an adjudicatory proceeding is  
590 brought or who is granted party status by the Board through intervention or  
591 joinder.

592  
593 "Party in interest" means the Agency when asked to conduct an investigation  
594 pursuant to Section 30 of the Act during an ongoing proceeding. (See Section  
595 101.404 of this Part.)

596  
597 "Peremptory rulemaking" means *any rulemaking that is required as a result of*  
598 *federal law, federal rules and regulations, or an order of a court, under*  
599 *conditions that preclude compliance with the general rulemaking requirements of*  
600 *Section 5-40 of the IAPA and that preclude the exercise by the Board as to the*  
601 *content of the rule it is required to adopt. [5 ILCS 100/5-50]*

602

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

605  
606 "Person" means *any individual, partnership, co-partnership, firm, company,*  
607 *limited liability company, corporation, association, joint stock company, trust,*  
608 *estate, political subdivision, state agency, or any other legal entity, or their legal*  
609 *representative, agent or assigns. [415 ILCS 5/3.315]*

610  
611 "Petition" means the initial filing in an adjudicatory proceeding other than an  
612 enforcement proceeding, including permit appeals, OSFM appeals, UST appeals,  
613 appeals of pollution control facility siting decisions, variances and adjusted  
614 standards.

615  
616 "Pilot project" means an innovative environmental project that covers one or more  
617 designated facilities, designed and implemented in the form of an EMSA. (See  
618 Section 52.3 of the Act.)

619  
620 "Pollution control facility" means *any waste storage site, sanitary landfill, waste*  
621 *disposal site, waste transfer station, waste treatment facility, or waste incinerator.*  
622 *This includes sewers, sewage treatment plants, and any other facilities owned or*  
623 *operated by sanitary districts organized under the Metropolitan Water*  
624 *Reclamation District Act. The following are not pollution control facilities:*

625  
626 *waste storage sites regulated under 40 CFR 761.42;*

627  
628 *sites or facilities used by any person conducting a waste storage, waste*  
629 *treatment, waste disposal, waste transfer or waste incineration operation,*  
630 *or a combination thereof, for wastes generated by such person's own*  
631 *activities, when such wastes are stored, treated, disposed of, transferred*  
632 *or incinerated within the site or facility owned, controlled or operated by*  
633 *such person, or when such wastes are transported within or between sites*  
634 *or facilities owned, controlled or operated by such person;*

635  
636 *sites or facilities at which the State is performing removal or remedial*  
637 *action pursuant to Section 22.2 or 55.3 of the Act;*

638  
639 *abandoned quarries used solely for the disposal of concrete, earth*  
640 *materials, gravel, or aggregate debris resulting from road construction*  
641 *activities conducted by a unit of government or construction activities due*  
642 *to the construction and installation of underground pipes, lines, conduit or*  
643 *wires off of the premises of a public utility company which are conducted*  
644 *by a public utility;*

645



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

648  
649 *regional facilities as defined in the Central Midwest Interstate Low-Level*  
650 *Radioactive Waste Compact;*

651  
652 *the portion of a site or facility where coal combustion wastes are stored or*  
653 *disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of*  
654 *the Act;*

655  
656 *the portion of a site or facility used for the collection, storage or*  
657 *processing of waste tires as defined in Title XIV;*

658  
659 *the portion of a site or facility used for treatment of petroleum*  
660 *contaminated materials by application onto or incorporation into the soil*  
661 *surface and any portion of that site or facility used for storage of*  
662 *petroleum contaminated materials before treatment. Only those*  
663 *categories of petroleum listed in Section 57.9(a)(3) of the Act are exempt*  
664 *under this definition;*

665  
666 *the portion of a site or facility where used oil is collected or stored prior*  
667 *to shipment to a recycling or energy recovery facility, provided that the*  
668 *used oil is generated by households or commercial establishments, and the*  
669 *site or facility is a recycling center or a business where oil or gasoline is*  
670 *sold at retail;*

671  
672 *processing sites or facilities that receive only on-specification used oil, as*  
673 *defined in 35 Ill. Adm. Code 739, originating from used oil collectors for*  
674 *processing that is managed under 35 Ill. Adm. Code 739 to produce*  
675 *products for sale to off-site petroleum facilities, if these processing sites or*  
676 *facilities are:*

677  
678 *located within a home rule unit of local government with a*  
679 *population of at least 30,000 according to the 2000 federal census,*  
680 *that home rule unit of local government has been designated as an*  
681 *Urban Round II Empowerment Zone by the United States*  
682 *Department of Housing and Urban Development, and that home*  
683 *rule unit of local government has enacted an ordinance approving*  
684 *the location of the site or facility and provided funding for the site*  
685 *or facility; and*

686  
687 *in compliance with all applicable zoning requirements;*  
688

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

695  
 696 *the portion of a site or facility that accepts exclusively general*  
 697 *construction or demolition debris, is located in a county with a*  
 698 *population over 3,000,000 as of January 1, 2000 or in a county that is*  
 699 *contiguous to such a county, and is operated and located in accordance*  
 700 *with Section 22.38 of the Act;*

701  
 702 *the portion of a site or facility, located within a unit of local government*  
 703 *that has enacted local zoning requirements, used to accept, separate, and*  
 704 *process uncontaminated broken concrete, with or without protruding*  
 705 *metal bars, provided that the uncontaminated broken concrete and metal*  
 706 *bars are not speculatively accumulated, are at the site or facility no longer*  
 707 *than one year after their acceptance, and are returned to the economic*  
 708 *mainstream in the form of raw materials or products;*

709  
 710 *the portion of a site or facility located in a county with a population over*  
 711 *3,000,000 that has obtained local siting approval under Section 39.2 of*  
 712 *the Act for a municipal waste incinerator on or before July 1, 2005 and*  
 713 *that is used for a non-hazardous waste transfer station;*

714  
 715 *the portion of a site or facility located in a county with a population*  
 716 *greater than 3,000,000 that has obtained local siting approval, under*  
 717 *Section 39.2 of the Act, for a municipal waste incinerator on or before*  
 718 *July 1, 2005 and that is used for wood combustion facilities for energy*  
 719 *recovery that accept and burn only wood material, as included in a fuel*  
 720 *specification approved by the Agency;*

721  
 722 *effective January 1, 2008, a site or facility that temporarily holds in transit*  
 723 *for 10 days or less, non-putrescible solid waste in original containers, no*  
 724 *larger in capacity than 500 gallons, provided that such waste is further*  
 725 *transferred to a recycling, disposal, treatment, or storage facility on a*  
 726 *non-contiguous site and provided such site or facility complies with the*  
 727 *applicable 10-day transfer requirements of the federal Resource*  
 728 *Conservation and Recovery Act of 1976 and United States Department of*  
 729 *Transportation hazardous material requirements. For purposes of this*  
 730 *Section only, "non-putrescible solid waste" means waste other than*  
 731 *municipal garbage that does not rot or become putrid, including, but not*

732 *limited to, paints, solvent, filters, and absorbents;*  
733  
734 *a transfer station used exclusively for landscape waste, including a*  
735 *transfer station where landscape waste is ground to reduce its volume,*  
736 *where the landscape waste is held no longer than 24 hours from the time it*  
737 *was received;*  
738  
739 *the portion of a site or facility that is used for the composting of food*  
740 *scrap, livestock waste, crop residue, uncontaminated wood waste, or*  
741 *paper waste, including, but not limited to, corrugated paper or cardboard,*  
742 *and meets all of the following requirements:*  
743  
744 *there must not be more than a total of 30,000 cubic yards of*  
745 *livestock waste in raw form or in the process of being composted at*  
746 *the site or facility at any one time;*  
747  
748 *all food scrap, livestock waste, crop residue, uncontaminated wood*  
749 *waste, and paper waste must, by the end of each operating day, be*  
750 *processed and placed into an enclosed vessel in which air flow and*  
751 *temperature are controlled, or all of the following additional*  
752 *requirements must be met:*  
753  
754 *the portion of the site or facility used for the composting*  
755 *operation must include a setback of at least 200 feet from*  
756 *the nearest potable water supply well;*  
757  
758 *the portion of the site or facility used for the composting*  
759 *operation must be located outside the boundary of the 10-*  
760 *year floodplain or floodproofed;*  
761  
762 *except in municipalities with more than 1,000,000*  
763 *inhabitants, the portion of the site or facility used for the*  
764 *composting operation must be located at least one-eighth of*  
765 *a mile from the nearest residence, other than a residence*  
766 *located on the same property as the site or facility;*  
767  
768 *the portion of the site or facility used for the composting*  
769 *operation must be located at least one-eighth of a mile from*  
770 *the property line of all of the following areas:*  
771  
772 *facilities that primarily serve to house or treat*  
773 *people that are immunocompromised or*  
774 *immunosuppressed, such as cancer or AIDS*

775 *patients; people with asthma, cystic fibrosis, or*  
776 *bioaerosol allergies; or children under the age of*  
777 *one year;*

778  
779 *primary and secondary schools and adjacent areas*  
780 *that the schools use for recreation;*

781  
782 *any facility for child care licensed under Section 3*  
783 *of the Child Care Act of 1969; preschools; and*  
784 *adjacent areas that the facilities or preschools use*  
785 *for recreation;*

786  
787 *by the end of each operating day, all food scrap, livestock*  
788 *waste, crop residue, uncontaminated wood waste, and*  
789 *paper waste must be processed into windrows or other*  
790 *piles and covered in a manner that prevents scavenging by*  
791 *birds and animals and that prevents other nuisances;*

792  
793 *food scrap, livestock waste, crop residue, uncontaminated wood*  
794 *waste, paper waste, and compost must not be placed within 5 feet*  
795 *of the water table;*

796  
797 *the site or facility must meet all of the requirements of the Wild*  
798 *and Scenic Rivers Act (16 USC: 1271 et seq.);*

799  
800 *the site or facility must not restrict the flow of a 100-year flood,*  
801 *result in washout of food scrap, livestock waste, crop residue,*  
802 *uncontaminated wood waste, or paper waste from a 100-year*  
803 *flood, or reduce the temporary water storage capacity of the 100-*  
804 *year floodplain, unless measures are undertaken to provide*  
805 *alternative storage capacity, such as by providing lagoons, holding*  
806 *tanks, or drainage around structures at the facility;*

807  
808 *the site or facility must not be located in any area where it may*  
809 *pose a threat of harm or destruction to the features for which:*

810  
811 *an irreplaceable historic or archaeological site has been*  
812 *listed under the National Historic Preservation Act (16*  
813 *USC: 470 et seq.) or the Illinois Historic Preservation Act*  
814 *[20 ILCS 3410];*

815

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

819  
820 *a natural area has been designated as a Dedicated Illinois*  
821 *Nature Preserve under the Illinois Natural Areas*  
822 *Preservation Act [525 ILCS 30];*

823  
824 *the site or facility must not be located in an area where it may*  
825 *jeopardize the continued existence of any designated endangered*  
826 *species, result in the destruction or adverse modification of the*  
827 *critical habitat for such species, or cause or contribute to the*  
828 *taking of any endangered or threatened species of plant, fish, or*  
829 *wildlife listed under the Endangered Species Act (16 USC: 1531 et*  
830 *seq.) or the Illinois Endangered Species Protection Act [520 ILCS*  
831 *10];*

832  
833 *the portion of a site or facility that is located entirely within a home rule*  
834 *unit having a population no less than 120,000 and no more than 135,000,*  
835 *according to the 2000 federal census, and that meets all of the following*  
836 *requirements:*

837  
838 *the portion of the site or facility is used exclusively to perform*  
839 *testing of a thermochemical conversion technology using only*  
840 *woody biomass, collected as landscape waste within the*  
841 *boundaries of the home rule unit, as the hydrocarbon feedstock for*  
842 *the production of synthetic gas in accordance with Section 39.9 of*  
843 *the Act;*

844  
845 *the portion of the site or facility is in compliance with all*  
846 *applicable zoning requirements; and*

847  
848 *a complete application for a demonstration permit at the portion of*  
849 *the site or facility has been submitted to the Agency in accordance*  
850 *with Section 39.9 of the Act within one year after July 27, 2010*  
851 *(the effective date of Public Act 96-1314);*

852  
853 *the portion of a site or facility used to perform limited testing of a*  
854 *gasification conversion technology in accordance with Section 39.8 of the*  
855 *Act and for which a complete permit application has been submitted to the*  
856 *Agency prior to one year from April 9, 2010 (the effective date of Public*  
857 *Act 96-887);-and*

858

859 *the portion of a site or facility that it used to incinerate only*  
860 *pharmaceuticals from residential sources that are collected and*  
861 *transported by law enforcement agencies under Section 17.9A of the Act;*  
862 *and*

863  
864 *until July 1, 2017, the portion of a site or facility:*

865  
866 *that is used exclusively for the transfer of commingled landscape*  
867 *waste and food scrap held at the site or facility for no longer than*  
868 *24 hours after their receipt:*

869  
870 *that is located entirely within a home rule unit having a population*  
871 *of either not less than 100,000 and not more than 115,000*  
872 *according to the 2010 federal census or not less than 5,000 and*  
873 *not more than 10,000 according to the 2010 federal census;*

874  
875 *that is permitted, by the Agency, prior to January 1, 2002, for the*  
876 *transfer of landscape waste; and*

877  
878 *for which a permit application is submitted to the Agency by July*  
879 *1, 2014 to modify an existing permit for the transfer of landscape*  
880 *waste to also include, on a demonstration basis not to exceed 18*  
881 *months, the transfer of commingled landscape waste and food*  
882 *scrap. [415 ILCS 5/3.330]*

883  
884 "Pollution control facility siting appeal" means an appeal of a decision made by a  
885 unit of local government filed with the Board pursuant to Section 40.1 of the Act.

886  
887 "Postconsumer material" means *paper, paperboard, and fibrous wastes from*  
888 *retail stores, office buildings, homes, and so forth, after the waste has been*  
889 *passed through its end usage as a consumer item, including used corrugated*  
890 *boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage.*  
891 *Additionally, it includes all paper, paperboard, and other fibrous wastes that are*  
892 *diverted or separated from the municipal solid waste stream [415 ILCS*  
893 *20/3(f)(2)(i) and (ii)]. (See also definition of "recycled paper" in this Section.)*

894  
895 "Prehearing conference" means a meeting held in an adjudicatory case to  
896 determine the status of the proceedings. A prehearing conference may also be a  
897 meeting held in a regulatory proceeding prior to the hearing, the purposes of  
898 which *shall be to maximize understanding of the intent and application of the*  
899 *proposal, if possible, and to attempt to identify and limit the issues of*  
900 *disagreement among participants to promote efficient use of time at hearing [415*  
901 *ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)*

902  
903 "Proceeding" means an action conducted before the Board pursuant to authority  
904 granted under Section 5 of the Act or as otherwise provided by law. Board  
905 proceedings are of two types: quasi-legislative (rulemaking and inquiry  
906 proceedings) and quasi-judicial (adjudicatory proceedings).  
907  
908 "Proponent" means any person, not including the Board or its staff, who submits a  
909 regulatory proposal to the Board for the adoption, amendment, or repeal of a  
910 regulation.  
911  
912 "Provisional variance" means a short term variance sought by an applicant and  
913 issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm.  
914 Code 104.Subpart C.)  
915  
916 "Public comment" means information submitted to the Board during a pending  
917 proceeding either by oral statement made at hearing or written statement filed  
918 with the Board.  
919  
920 "Public remarks" mean an oral statement that is publicly made at a Board meeting  
921 and directed to the Board concerning a proceeding listed on that meeting's agenda.  
922 (See Section 101.110(d) of this Subpart.)  
923  
924 "Qualitative description" means a narrative description pertaining to attributes and  
925 characteristics.  
926  
927 "Quantitative description" means a numerically based description pertaining to  
928 attributes and characteristics.  
929  
930 "RCRA variance" means a variance from a RCRA rule or a RCRA permit  
931 required pursuant to Section 21(f) of the Act.  
932  
933 "Record" means the official collection, as kept by the Clerk, of all documents and  
934 exhibits including pleadings, transcripts, and orders filed during the course of a  
935 proceeding.  
936  
937 "Recycled paper" means paper which contains at least 50% recovered paper  
938 material. The recovered paper material must contain at least 45% deinked stock  
939 or postconsumer material. (See also "postconsumer material" in this Section.)  
940  
941 "Registered agent" means a person registered with the Secretary of State for the  
942 purpose of accepting service for any entity, or a person otherwise authorized in  
943 writing as an agent for the purpose of accepting service for that entity.  
944

945 "Regulatory hearing" or "proceeding" means a hearing or proceeding held  
946 pursuant to Title VII of the Act or other applicable law with respect to  
947 regulations.  
948  
949 "Regulatory relief mechanisms" means variances, provisional variances and  
950 adjusted standards. (See 35 Ill. Adm. Code 104.)  
951  
952 "Representing" means, for purposes of Part 130, *describing, depicting,*  
953 *containing, constituting, reflecting or recording* [415 ILCS 5/7.1].  
954  
955 "Requester" means, for purposes of Part 130, the person seeking from the agency  
956 the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).  
957  
958 "Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste  
959 Disposal Act, as amended by the Resource Conservation and Recovery Act of  
960 1976 (42 USC 6901 et seq.).  
961  
962 "Rulemaking" or "rulemaking proceeding" means a proceeding brought under  
963 Title VII of the Act or other applicable law for the purpose of adoption,  
964 amendment, or repeal of a regulation.  
965  
966 "Sanction" means a penalty or other mechanism used by the Board to provide  
967 incentives for compliance with the Board's procedural rules, Board orders or  
968 hearing officer orders. (See also Subpart H of this Part.)  
969  
970 "SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).  
971  
972 "Service" means delivery of documents upon a person. (See Sections 101.300(c)  
973 and 101.304 of this Part.)  
974  
975 "Service list" means the list of persons designated by the hearing officer or Clerk  
976 in a regulatory or adjudicatory proceeding upon whom participants must serve  
977 motions, prefiled questions and prefiled testimony and any other documents that  
978 the participants file with the Clerk unless the hearing officer otherwise directs.  
979 (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code  
980 102.422.)  
981  
982 "Severance" means the separation of a proceeding into two or more independent  
983 proceedings, each of which terminates in a separate, final judgment.  
984  
985 "Site-specific rule or regulation" means a proposed or adopted regulation, not of  
986 general applicability, that applies only to a specific facility, geographic site, or  
987 activity. (See 35 Ill. Adm. Code 102.208.)



- 988  
989 "Sponsor" means the proponent of a pilot project that enters into an EMSA with  
990 the Agency.  
991  
992 "State enforcement proceeding" means an enforcement proceeding, other than a  
993 citizen's enforcement proceeding, that is brought pursuant to Section 31 of the  
994 Act.  
995  
996 "Stay" means a temporary suspension of the regular progress of a proceeding  
997 pursuant to an order of the Board or by operation of law. (See Section 101.514 of  
998 this Part.)  
999  
1000 "Subpoena" means a command to appear at a certain time and place to give  
1001 testimony upon a certain matter.  
1002  
1003 "Subpoena duces tecum" means a document that compels the production of  
1004 specific documents and other items at a specified time and place.  
1005  
1006 "Summary judgment" means the disposition of an adjudicatory proceeding  
1007 without hearing when the record, including pleadings, depositions and admissions  
1008 on file, together with any affidavits, shows that there is no genuine issue of  
1009 material fact, and that the moving party is entitled to judgment as a matter of law.  
1010 (See Section 101.516 of this Part.)  
1011  
1012 "Third party complaint" means a pleading that a respondent files setting forth a  
1013 claim against a person who is not already a party to the proceeding. (See 35 Ill.  
1014 Adm. Code 103.206.)  
1015  
1016 "Trade secret" means *the whole or any portion or phase of any scientific or*  
1017 *technical information, design, process (including a manufacturing process),*  
1018 *procedure, formula or improvement, or business plan which is secret in that it has*  
1019 *not been published or disseminated or otherwise become a matter of general*  
1020 *public knowledge, and which has competitive value. A trade secret is presumed*  
1021 *to be secret when the owner thereof takes reasonable measures to prevent it from*  
1022 *becoming available to persons other than those selected by the owner to have*  
1023 *access thereto for limited purposes. [415 ILCS 5/3.490]*  
1024  
1025 "Transcript" means the official recorded testimony from a hearing or public  
1026 remarks from a Board meeting.  
1027  
1028 "USEPA" means the United States Environmental Protection Agency.  
1029  
1030 "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.)

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

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

**Section 101.300 Computation of Time**

- a) Computation of Time. Computation of any period of time prescribed in the Act, other applicable law, or ~~this Subpart~~these rules will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.
- b) Time of Filing. Documents will be considered filed when they are filed in conformance with the requirements found in Section 101.302 of this ~~Subpart~~Part and any other filing requirements specified elsewhere specifically set out in the Board's procedural~~the other Parts of these rules.~~ Subpart J of this Part sets forth when electronic documents submitted to COOL will be considered filed.
  - 1) If ~~delivered~~filed in person, by messenger service, or by mail delivery service other than U.S. Mail, documents are considered filed when they are received in the Office of the Clerk.
  - 2) If the Clerk receives a document~~is filed~~ by U.S. Mail subsequent to a filing deadline date, yet the postmark date precedes or is the same as the filing deadline date, the document will be deemed filed on the postmark

1074 date, provided all filing requirements ~~are met as set forth in Section~~  
1075 101.302 of this ~~Subpart~~ are met~~Part~~.

1076  
1077 3) Documents ~~filed and~~ received in the Office of the Clerk after 4:30 p.m.  
1078 will be marked as filed the following business day, provided all filing  
1079 requirements set forth in Section 101.302 of this Subpart are met. The  
1080 Clerk will record the appropriate filing date on all filed documents.

1081  
1082 4) For purposes of Board decision deadlines, the decision period~~time~~ does  
1083 not begin until the date on which the initial filing is date-stamped by the  
1084 Clerk.

1085  
1086 c) Time of Service. In the case of personal service, service is deemed complete on  
1087 the date personal delivery was effectuated. In the case of facsimile transmission,  
1088 service is deemed complete on the date of a complete and proper transmittal.  
1089 Facsimile~~(facsimile~~ filings are only allowed in accordance with Section  
1090 101.302(d) of this ~~Subpart~~Part). In the case of service by e-mail, Section  
1091 101.1060(d) of this Part sets forth when service is deemed complete. E-mail  
1092 filings are only allowed in accordance with Section 101.302(d) of this Subpart. In  
1093 the case of service by registered or certified mail, or by messenger service, service  
1094 is deemed complete on the date specified on the registered or the U.S. Mail,  
1095 service is presumed complete four days after mailing. The presumption can be  
1096 rebutted by proper proof.

1097  
1098 d) Date of Board Decision.

1099  
1100 1) For purposes of statutory decision deadline proceedings, the date of the  
1101 Board decision is the date of the Board meeting where a final opinion and  
1102 order of the Board was adopted by the vote of at least three Board  
1103 members.

1104  
1105 2) For purposes of appeal, the date of the party's certified mail receipt of the  
1106 Board decision is the date of service of the final opinion and order by the  
1107 Board upon the appealing party. Or, in the event of a timely filed motion  
1108 for reconsideration filed pursuant to Section 101.520 of this Part, the date  
1109 of the party's certified mail receipt of the Board order ruling upon the  
1110 motion is the date of service by the Board upon the appealing party.

1111  
1112 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1113  
1114 **Section 101.302 Filing of Documents**

1115  
1116 a) This Section contains the Board's general filing requirements. Additional

requirements may exist for specific proceedings elsewhere in the Board's procedural these rules. The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.

- b) All documents to be filed with the Board must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010 of this Part. All documents to be filed with the Board must be filed with the Clerk's Office. Service on a hearing officer does not constitute filing with the Board unless the document is submitted to the hearing officer during the course of a hearing. Documents may be filed at:

Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, Illinois 60601-3218

- c) Documents may be filed by U.S. Mail or other mail delivery service, by electronic means in accordance with Subpart J of this Part, in person, or by messenger.
- d) A filing Filing by e-mail electronic transmission or facsimile will only be allowed with the prior approval of the Clerk of the Board or hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
- e) The following initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee, which may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1) of this Part, but cannot which may not be paid in cash.:

- 1) Petition for Site-Specific Regulation, \$75;
- 2) Petition for Variance, \$75;
- 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, \$75;
- 4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, \$75; and

- 1160  
 1161 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, \$75.  
 1162  
 1163 f) All documents filed must be served in accordance with Subpart C of this Part.  
 1164  
 1165 g) All documents filed with the Board ~~must~~ should contain the relevant proceeding  
 1166 caption and docket number. All documents and must be submitted on or  
 1167 formatted to print on 8½ x 11 inch paper, except as provided in subsection (j) of  
 1168 this Section. Paper documents must be submitted on recycled paper as defined in  
 1169 Subpart B of this Part, and, if feasible, double sided-if feasible. All pages in a  
 1170 document must be sequentially numbered. All documents created by word  
 1171 processing programs must be formatted as follows:  
 1172  
 1173 1) The margins must each be a minimum one inch on the top, bottom, and  
 1174 both sides of the page; and  
 1175  
 1176 2) The size of the type in the body of the text must be no less than 12 point  
 1177 font, and in footnotes no less than 10 point font.  
 1178  
 1179 h) Unless the Board or its procedural rules provide otherwise, all documents must be  
 1180 filed in paper or through COOL electronically pursuant to this subsection.~~with a~~  
 1181 ~~signed original and 9 duplicate copies (10 total), except that:~~  
 1182  
 1183 1) Except as provided in subsection (h)(2), (h)(3), or (h)(4) of this Section:  
 1184  
 1185 A) Any type of document may be filed in paper or through COOL.  
 1186  
 1187 B) If a document is filed in paper, the original and three copies of the  
 1188 document (four total) are required.  
 1189  
 1190 C) If a document is filed through COOL in accordance with Subpart J  
 1191 of this Part, no paper original or copy of the document is required.  
 1192  
 1193 2) The original documents listed in this subsection (h)(2) must be filed in  
 1194 paper. In lieu of filing three paper copies with the original pursuant to  
 1195 subsection (h)(1)(B) of this Section, a compact disk of the document in  
 1196 text searchable Adobe PDF may be filed with the original. The following  
 1197 documents must be filed in paper:  
 1198  
 1199 A) The original Agency record required by 35 Ill. Adm. Code 105.212  
 1200 (permit decision or other final decision), 105.302 (CAAPP permit  
 1201 application), 105.410 (leaking UST decision), or 125.208

1202 (recommendation on tax certification) (see 35 Ill. Adm. Code  
 1203 105.116);

1204  
 1205 B) The original OSFM record required by 35 Ill. Adm. Code 105.508  
 1206 (UST Fund eligibility and deductibility) (see 35 Ill. Adm. Code  
 1207 105.116);

1208  
 1209 C) The original local siting authority record required by 35 Ill. Adm.  
 1210 Code 107.302 (pollution control facility siting) (see 35 Ill. Adm.  
 1211 Code 107.304); and

1212  
 1213 D) An original oversized exhibit (see subsection (j) of this Section).

1214  
 1215 3) A document containing information claimed or determined to be a trade  
 1216 secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code  
 1217 130, is prohibited from being filed electronically and must instead be filed  
 1218 only in paper. The version of the document that is redacted pursuant to 35  
 1219 Ill. Adm. Code 130 may be filed through COOL.

1220  
 1221 4) When filing a rulemaking proposal, the proponent must file four paper  
 1222 originals of any document that is protected by copyright law (17 USC 101  
 1223 et seq.) and proposed pursuant to Section 5-75 of the IAPA [5 ILCS  
 1224 100/5-75] to be incorporated by reference. Any such copyrighted  
 1225 document is prohibited from being filed electronically and must instead be  
 1226 filed only in paper. The remainder of the rulemaking proposal may be  
 1227 filed through COOL.

1228  
 1229 ~~4) Documents and motions specifically directed to the assigned hearing~~  
 1230 ~~officer must be filed with the Clerk with a signed original and 4 duplicate~~  
 1231 ~~copies (5 total), or as the hearing officer orders;~~

1232  
 1233 ~~2) The Agency may file a signed original and 4 duplicate copies (5 total) of~~  
 1234 ~~the record required by Section 105.116, 105.302, and 105.410;~~

1235  
 1236 ~~3) The OSFM may file a signed original and 4 duplicate copies (5 total) of~~  
 1237 ~~the record required by Section 105.508; and~~

1238  
 1239 ~~4) The siting authority may file a signed original and 4 duplicate copies (5~~  
 1240 ~~total) of the record required by Sections 107.300 and 302.~~

1241  
 1242 i) No written discovery, including interrogatories, requests to produce, and requests  
 1243 for admission, or any response to written discovery, may be filed with the Clerk  
 1244 of the Board except upon leave or direction of the Board or hearing officer. Any

discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h) of this Section with a signed original and 4 duplicate copies (5 total), or as the hearing officer directs.

- j) Oversized Non-Conforming Exhibits. When reasonably practicable, ~~oversized possible,~~ exhibits must be reduced to conform to or be formatted to print on 8½ x 11 inch recycled paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the one non-conforming original oversized exhibit still must ~~copy may~~ be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, ~~Upon closure of the proceeding, the original oversized exhibit non-conforming copy may be returned to the person who filed filing it in accordance with 2 Ill. Adm. Code 2175.300.~~
- k) Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**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. Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Documentation Proof of service of initial filings must be filed with the Board upon completion of service.
- c) Method of Service. Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or by e-mail in accordance with Subpart J of this Part or as prescribed in Section 101.302(d), except for service of enforcement complaints, ~~and administrative citations,~~ and EMSA statements of deficiency, which must be made personally, by registered or certified mail, or by messenger service. Documentation Proof of service of enforcement complaints, ~~and administrative citations,~~ and EMSA statements of deficiency must be filed with the Board upon completion of service.
- d) Affidavit or Certificate of Service. A proceeding is subject to dismissal, and ~~persons~~ parties are subject to sanctions in accordance with Section 101.800 of this Part, if service is not timely made. Documentation Proof of ~~proper~~ service is the

1288 responsibility of the ~~person~~ party filing and serving the document. An affidavit of  
1289 service or certificate of service must accompany all filings ~~of all parties~~. A  
1290 sample form of the affidavit of service and certificate of service is available in  
1291 Appendix E of this Part ~~at the Board's Offices (the locations of the Board's Offices~~  
1292 ~~are listed at 2 Ill. Adm. Code 2175.115) and may be obtained electronically at the~~  
1293 ~~Board's Web site.~~

- 1294
- 1295 e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief  
1296 with the Board in any proceeding must serve copies of that brief on all parties in  
1297 accordance with this Section.
- 1298
- 1299 f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants  
1300 are required to serve their comments upon the parties to the proceeding. The  
1301 Board will consider the comments as time and the Act or other applicable law  
1302 allow.
- 1303
- 1304 g) Service on State Agencies. Service must be at the addresses listed below unless a  
1305 specific person has an appearance on file with the Board or has, in accordance  
1306 with Section 101.1070 of this Part, consented to e-mail service.

- 1307
- 1308 1) Service on the Illinois Environmental Protection Agency (Agency). The  
1309 Agency must be served at the following address:

1310

1311 Division of Legal Counsel  
1312 Illinois Environmental Protection Agency  
1313 1021 North Grand Avenue East  
1314 P.O. Box 19276  
1315 Springfield IL 62794-9276

- 1316
- 1317 2) Service on Office of State Fire Marshal (OSFM). The OSFM must be  
1318 served at the following address:

1319

1320 Division of Petroleum and Chemical Safety  
1321 Office of the State Fire Marshal  
1322 1035 Stevenson Dr.  
1323 Springfield IL 62703

- 1324
- 1325 3) Service on the Illinois Attorney General. The Office of the Attorney  
1326 General must be served at the following address:

1327

1328 Division Chief of Environmental Enforcement  
1329 Office of the Attorney General  
1330 100 West Randolph St., Suite 1200



- 1331 Chicago IL 60601  
1332  
1333 4) Service on the Illinois Department of Natural Resources (DNR). DNR  
1334 must be served at the following address:  
1335  
1336 Office of Legal Services  
1337 Illinois Department of Natural Resources  
1338 One Natural Resources Way  
1339 Springfield IL 62702-1271  
1340  
1341 5) Service on the Illinois Department of Transportation (IDOT). IDOT must  
1342 be served at the following address:  
1343  
1344 Office of Chief Counsel  
1345 DOT Administration Building  
1346 2300 S. Dirksen Parkway, Room 300  
1347 Springfield IL 62764  
1348  
1349 6) Service on Region V of the United States Environmental Protection  
1350 Agency (USEPA). USEPA Region V must be served at the following  
1351 address:  
1352  
1353 USEPA, Region V  
1354 77 West Jackson  
1355 Chicago IL 60604  
1356

1357 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1358

1359 **Section 101.306 Incorporation of Documents from Another Proceeding ~~by Reference~~**  
1360

- 1361 a) Upon the separate written request of any person or on its own initiative, the Board  
1362 or hearing officer may incorporate materials from the record of another Board  
1363 docket into any proceeding. The person seeking incorporation must file the  
1364 material to be incorporated with the Board in accordance with Section 101.302(h)  
1365 of this Subpart ~~4 copies of the material to be incorporated. The Board or hearing~~  
1366 ~~officer may approve a reduced number of copies for documents incorporated in~~  
1367 ~~other Board dockets.~~ The person seeking incorporation must demonstrate to the  
1368 Board or the hearing officer that the material to be incorporated is authentic,  
1369 credible, and relevant to the proceeding. Notice of the request must be given to  
1370 all identified participants or parties by the person seeking incorporation.  
1371  
1372 b) The Board will give the incorporated matter the appropriate weight in light of the  
1373 following factors: the standard of evidence under which the material was

1374 previously presented to the Board; the present purpose for incorporating the  
1375 material; and the past and current opportunity for cross-examination of the  
1376 matters asserted within the incorporated material.  
1377

1378 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1379

1380 SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION  
1381

1382 **Section 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in**  
1383 **Adjudicatory Proceedings**  
1384

- 1385 a) Appearances. A person who is a party in a Board adjudicatory proceeding may  
1386 appear as follows:  
1387
- 1388 1) Individuals may appear on their own behalf or through an attorney-at-law  
1389 licensed and registered to practice law. (Section 1 of the Attorney Act  
1390 [705 ILCS 205/1])  
1391
  - 1392 2) When appearing before the Board, any person other than individuals must  
1393 appear through an attorney-at-law licensed and registered to practice law.  
1394 (Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS  
1395 220/1] and Section 1 of the Attorney Act [705 ILCS 205/1])  
1396
  - 1397 3) Attorneys who are licensed to practice in a state other than Illinois and  
1398 who are not licensed and registered to practice in the State of Illinois may  
1399 request to appear pro hac vice on a particular matter on a motion filed with  
1400 the Board.  
1401
  - 1402 4) Any attorney appearing in a representative capacity must file a separate  
1403 written notice of appearance with the Clerk, together with  
1404 documentation proof of service and notice of filing of the appearance on all  
1405 parties in the proceeding. Law firms, the Agency, and the Attorney  
1406 General's Office when appearing before the Board must designate a lead  
1407 attorney for purposes of phone and mail contact pertaining to the  
1408 proceeding. Absent a separate written notice, the Board will designate the  
1409 attorney whose signature appears first on the complaint as the lead  
1410 attorney.  
1411
  - 1412 5) Any person appearing before the Board may appear in a special limited  
1413 capacity to contest jurisdiction.  
1414
- 1415 b) Withdrawals. An attorney who has appeared in a representative capacity and who  
1416 wishes to withdraw from that representation must file a notice of withdrawal with

1417 the Clerk, together with ~~documentation~~<sup>proof</sup> of service and notice of filing on all  
1418 parties or their representatives.

- 1419
- 1420 c) Substitution. Any attorney who substitutes for an attorney of record must file a  
1421 written appearance pursuant to subsection (a) of this Section. That appearance  
1422 must identify the attorney for whom the substitution is made. However, no  
1423 attorney will be considered withdrawn from a proceeding until a formal  
1424 withdrawal is filed in accordance with subsection (b) of this Section.
- 1425
- 1426 d) Any person may appear on behalf of himself or others in a rulemaking proceeding  
1427 in accordance with 35 Ill. Adm. Code 102.100(b).

1428  
1429 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1430

1431 **SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS**

1432

1433 **Section 101.902 Motions for Reconsideration**

1434

1435 In ruling upon a motion for reconsideration, the Board will consider factors including new  
1436 evidence, or a change in the law, to conclude that the Board's decision was in error. (See also  
1437 Section 101.520 of this Part.) A motion for reconsideration of a final Board order is not a  
1438 prerequisite for the appeal of the final Board order.

1439  
1440 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1441

1442 **Section 101.904 Relief from ~~and~~ Review of Final Opinions and Orders**

- 1443
- 1444 a) Upon its own motion or motion of any party, the Board may correct clerical  
1445 mistakes in orders or other parts of the record and errors therein arising from  
1446 oversight or omission. The mistakes may be so corrected by the Board before the  
1447 appeal is docketed in the appellate court. Thereafter, while the appeal is pending,  
1448 the mistakes may be corrected only with leave of the appellate court. Any  
1449 corrected order will be mailed to all parties and participants in that proceeding.
- 1450
- 1451 b) On written motion, the Board may relieve a party from a final order entered in a  
1452 contested proceeding, for the following:
- 1453
- 1454 1) Newly discovered evidence that existed at the time of hearing and that by  
1455 due diligence could not have been timely discovered;
- 1456
- 1457 2) Fraud (whether intrinsic or extrinsic), misrepresentation, or other  
1458 misconduct of an adverse party; or  
1459

- 1460 3) Void order, such as an order based upon jurisdictional defects.
- 1461
- 1462 c) A motion under this Section does not affect the finality of a Board order or
- 1463 suspend the operation of a Board order. The motion must be filed in the same
- 1464 proceeding in which the order was entered but is not a continuation of the
- 1465 proceeding. The motion must be supported by oath or affidavit or other
- 1466 appropriate showing as to matters not of record. All parties or participants in the
- 1467 proceeding must be notified by the movant as provided by Section 101.304 of this
- 1468 Part.
- 1469
- 1470 d) A motion under subsection (b) of this Section must be filed with the Board within
- 1471 one year after entry of the order except that a motion pursuant to subsection (b)(3)
- 1472 of this Section must be filed within a reasonable time after entry of the order.
- 1473
- 1474 e) Any response to a motion under this Section must be filed within 14 days after the
- 1475 filing of the motion.
- 1476
- 1477 f) ~~A motion for reconsideration of a final Board order is not a prerequisite for the~~
- 1478 ~~appeal of that final Board order.~~

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 101.906 Judicial Review of Board Orders**

- 1482
- 1483
- 1484 a) Pursuant to Sections 29 and 41 of the Act [415 ILCS 5/29 and 41] and, Supreme
- 1485 Court Rule 335, ~~and Section 10-50 of the IAPA,~~ judicial review of final Board
- 1486 orders is available from the appellate court. However, pursuant to Section 11-60
- 1487 of the Property Tax Code [35 ILCS 200/11-60], judicial review of final Board
- 1488 orders in tax certification proceedings is available from the circuit court.
- 1489
- 1490 b) For purposes of judicial review, final Board orders are appealable as of the date of
- 1491 service by the Board upon the appealing party.
- 1492
- 1493 c) The procedure for stay of any final Board order during appeal will be as provided
- 1494 in Rule 335 of the Rules of the Supreme Court of Illinois (Ill. S. Ct. Rule 335).
- 1495

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

**Section 101.1000 Electronic Filing and E-Mail Service**

1500

1501

- 1502 a) The Board provides the opportunity to file and access documents electronically  
 1503 through its Clerk's Office On-Line (COOL). COOL is located on the Board's  
 1504 website (www.ipcb.state.il.us). The Board has taken steps designed to ensure the  
 1505 integrity and security of COOL in accordance with State policies developed under  
 1506 the Electronic Commerce Security Act [5 ILCS 175].  
 1507
  - 1508 b) To file an electronic document with the Board, a person must upload the  
 1509 document on COOL. Electronic filing is not accomplished by sending a  
 1510 document to the e-mail address of the Clerk or hearing officer.  
 1511
  - 1512 c) Except as provided in Section 101.302(h)(2), (h)(3), and (h)(4) of this Part and  
 1513 Section 101.1050 of this Subpart, all documents may be filed through COOL. If a  
 1514 person files an electronic document in accordance with this Subpart, the person is  
 1515 not required to file a paper original or copy of that document. However, as  
 1516 provided in Section 101.302(h)(2), (h)(3), and (h)(4) of this Part and Section  
 1517 101.1050 of this Subpart, some original documents must be filed in paper and  
 1518 other documents are prohibited from being filed electronically.  
 1519
  - 1520 d) Nothing in this Subpart requires a person to file a document electronically.  
 1521 Generally, the Clerk's Office will convert paper-filed documents into electronic  
 1522 documents and place them on COOL.  
 1523
  - 1524 e) All documents filed with the Board may be served by e-mail except for  
 1525 enforcement complaints, administrative citations, and EMSA statements of  
 1526 deficiency. (See Section 101.304(c) of this Part and Section 101.1060 of this  
 1527 Subpart.) Nothing in this Subpart requires a person to serve a document by e-mail  
 1528 or to accept service of a document by e-mail.  
 1529
- 1530 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1531  
 1532 **Section 101.1010 Electronic Filing Authorization and Signatures**  
 1533

- 1534 a) A person seeking to upload a document on COOL for filing must have been  
 1535 issued a State of Illinois digital signature certificate pursuant to Section 15-310 of  
 1536 the Electronic Commerce Security Act. (See 5 ILCS 175/15-310.) A link to the  
 1537 subscriber agreement and application for a State of Illinois digital signature  
 1538 certificate is available through COOL.  
 1539
- 1540 1) Maintaining digital signature confidentiality is the responsibility of the  
 1541 holder of the digital signature certificate. The certificate holder is  
 1542 responsible for any document electronically filed by anyone using his or  
 1543 her digital signature certificate.  
 1544

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- 2) The digital signature certificate holder is responsible for keeping his or her contact information current.
  
- b) Each electronic document uploaded on COOL for filing must bear a facsimile electronic signature (i.e., scanned image of original pen-and-ink signature) or typographical electronic signature (i.e., "/s/ typed name") of the person authorizing the filing (e.g., attorney, participant, pro se party). However, if this electronic signature is absent, the document will be deemed to have been signed by the holder of the digital signature certificate used to upload the document and the certificate holder will be deemed to have authorized the filing. (See 5 ILCS 175/5-120.) To file an electronic document on behalf of another person in an adjudicatory proceeding, an electronic signature of a licensed and registered attorney is required. (See Section 101.400(a) of this Part.)
  
- c) If an electronic document or portion thereof requires the signatures of any persons in addition to those specified in subsection (b) of this Section (e.g., settlement agreement, witness' affidavit), the person authorizing the filing must:
  - 1) Confirm that the additional persons have approved the document or corresponding portion thereof and obtain their original pen-and-ink signatures before the document is uploaded on COOL for filing;
  
  - 2) Ensure that the document or corresponding portion thereof bears the facsimile electronic signatures of, and indicates the identity of, the additional persons;
  
  - 3) Upload the document on COOL as a scanned image containing the necessary signatures; and
  
  - 4) Retain the paper original of the document, including the original pen-and-ink signatures of the additional persons, for one year after the later of the following:
    - A) The date on which the time period expires for appealing the final order of the Board; or
  
    - B) If the final order of the Board is appealed, the date on which the time period expires for seeking any further review in the courts.
  
- d) In lieu of complying with subsection (c) of this Section, the person authorizing the filing may file the paper original of the document, including the original pen-and-ink signatures of the additional persons, and separately file the document through

1587 COOL without the facsimile electronic signatures of the additional persons (see  
1588 Section 101.1020(e)(2) of this Subpart).

1589 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1590

1591  
1592 **Section 101.1020 Filing Electronic Documents**

- 1593
- 1594 a) COOL. To file an electronic document through COOL, the document must first  
1595 be uploaded on COOL.
  - 1596
  - 1597 b) Digital Signature Certificate. Uploading a document on COOL requires a valid  
1598 State of Illinois digital signature certificate.
  - 1599
  - 1600 c) Uploading Hours. Electronic documents may be uploaded on COOL 24 hours per  
1601 day, every day.
  - 1602
  - 1603 d) E-Mail Receipt. Uploading a document on COOL will generate an e-mail receipt  
1604 for the digital signature certificate holder. The receipt will verify the date and  
1605 time when the document was uploaded on COOL.
  - 1606
  - 1607 e) Time of Filing. Subject to subsection (f) of this Section, an electronic document  
1608 uploaded on COOL will be considered filed as of the date and time specified on  
1609 the e-mail receipt generated pursuant to subsection (d) of this Section, except that:  
1610
    - 1611 1) A document uploaded on a Saturday or Sunday, on a national or State  
1612 legal holiday, or after 4:30 p.m. on a weekday is deemed filed the next  
1613 business day.
    - 1614
    - 1615 2) A document uploaded without one or more portions of the filing (e.g.,  
1616 oversized exhibit; trade secret or non-disclosable information; copyrighted  
1617 document proposed for incorporation by reference in a rule) or without a  
1618 required oath, affidavit, notarization, signature, or filing fee is considered  
1619 filed:
      - 1620
      - 1621 A) On the date that the Clerk receives the document's last missing  
1622 item; or
      - 1623
      - 1624 B) On the postmark date of the document's last missing item if that  
1625 item was sent by U.S. Mail, was received after the date of a filing  
1626 deadline, and has a postmark date that precedes or is the same as  
1627 the deadline date.
      - 1628

- 1629           3)     A document consisting of multiple electronic files is considered filed as of  
 1630           the date and time specified on the e-mail receipt generated pursuant to  
 1631           subsection (d) of this Section for the last file uploaded to complete the  
 1632           document.
- 1633
- 1634     f)     Review by the Clerk. The Clerk will review electronically each document  
 1635           uploaded on COOL, validate the proceeding information provided, and accept or  
 1636           reject the document for filing.
- 1637
- 1638           1)     If the Clerk accepts an uploaded document, the Clerk's Office will e-mail a  
 1639           notice of acceptance to the digital signature certificate holder, indicating  
 1640           that the filed document may be viewed on COOL.
- 1641
- 1642           2)     If the Clerk rejects an uploaded document, the Clerk's Office will e-mail a  
 1643           notice of rejection to the digital signature certificate holder. The Clerk  
 1644           may reject an uploaded document because the document is prohibited  
 1645           from being filed electronically pursuant to Section 101.302(h)(3) or (h)(4)  
 1646           of this Part, the document fails to comply with file size or naming  
 1647           requirements of Section 101.1030(c) of this Subpart, or the document is  
 1648           corrupted or otherwise cannot be readily opened. If an uploaded  
 1649           document is rejected by the Clerk, the Board may, upon good cause  
 1650           shown, enter an order deeming the document filed as of the date and time  
 1651           specified when the document was uploaded on COOL, subject to  
 1652           subsections (e)(1) through (e)(3) of this Section.
- 1653
- 1654     g)     Technical Failure. If an electronic document is not uploaded, or is materially  
 1655           delayed in uploading, on COOL due to a technical failure, the Board may, upon  
 1656           good cause shown, enter an order deeming the document uploaded pursuant to  
 1657           subsection (d) of this Section as of the date and time of the first attempted  
 1658           uploading. "Technical failure" as used in this subsection is limited to a system  
 1659           outage of COOL or other malfunction of the hardware, software, or  
 1660           telecommunications facilities of the Board or the Board's electronic filing  
 1661           provider. "Technical failure", therefore, does not include any malfunction of the  
 1662           equipment used by the person authorizing the filing or the digital signature  
 1663           certificate holder.
- 1664
- 1665     h)     Clerk's Electronic Stamp. An electronic document uploaded on COOL and  
 1666           accepted by the Clerk for filing will be endorsed by the Clerk with a file stamp  
 1667           setting forth the date of filing. This file stamp will be merged with the electronic  
 1668           document and visible when the document is viewed on COOL. Electronically  
 1669           filed documents so endorsed have the same legal effect as paper documents file-  
 1670           stamped by the Clerk conventionally in accordance with Section 101.300(b) of  
 1671           this Part.



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1679
- i) Decision Deadlines. For purposes of Board decision deadlines, the decision period does not begin until the date on which the electronic document constituting the initial filing is considered filed under this Section.
  - j) Filing Deadlines. The electronic filing of a document does not alter any applicable filing deadlines.

1680 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1681  
1682 **Section 101.1030 Form of Electronic Documents for Filing**

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1714
- a) In addition to complying with the formatting requirements of Section 101.302(g) and (j) of this Part, electronic documents uploaded on COOL for filing must be in one of the following electronic formats:
    - 1) Adobe Portable Document Format (PDF), version 2.0 or greater;
    - 2) Microsoft Word for Windows, version 6.0 or greater;
    - 3) Corel WordPerfect for Windows, version 6.0 or greater; or
    - 4) Microsoft Excel for Windows, version 4.0 or greater.
  - b) Generally, electronic documents filed in accordance with this Subpart will be posted to COOL by the Clerk's Office in text searchable Adobe PDF. When practicable, persons should:
    - 1) Upload their electronic documents on COOL in text searchable Adobe PDF; and
    - 2) Convert their electronic documents to a text searchable Adobe PDF directly from the program used to create the document, rather than from a scanned image of the paper document.
  - c) No single electronic file uploaded on COOL, whether constituting all or part of an electronic document, may contain more than 10 megabytes (MB) of data. To comply with this requirement, an electronic document may be divided into parts and submitted as multiple electronic files, each file being 10 MB or less. The person authorizing the filing is responsible for dividing the document into appropriately-sized files and naming each file to reflect its place within the electronic document.

- 1715 d) Multiple electronic documents, whether for the same proceeding or different
- 1716 proceedings, must be uploaded separately on COOL and, therefore, must not be
- 1717 combined into a single electronic file for filing through COOL.
- 1718
- 1719 e) Electronic documents may contain links to material external to the filed
- 1720 document. However, links to external material are for convenience purposes
- 1721 only. The external material behind the link is not considered part of the filing or
- 1722 the record of the proceeding in which the document was filed.
- 1723
- 1724 f) All documents uploaded on COOL must be free of viruses or other harmful
- 1725 processes. If an electronic document containing a virus or other harmful process
- 1726 is uploaded on COOL, the Board may, consistent with Section 101.800(b) and (c)
- 1727 of this Part, impose sanctions, including barring the document from being filed in
- 1728 any manner and barring the person authorizing the filing or the digital signature
- 1729 certificate holder from any further electronic filing through COOL.
- 1730

1731 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1732

1733 **Section 101.1040 Filing Fees**

- 1734
- 1735 a) Filing fees are specified in Section 101.302(e) of this Part. The Clerk's Office
- 1736 imposes no additional fee to file a document electronically.
- 1737
- 1738 b) A person seeking to file an electronic document that requires a filing fee must
- 1739 either:
- 1740
- 1741 1) Pay the fee with a valid credit card through COOL when the document is
- 1742 uploaded on COOL; or
- 1743
- 1744 2) Deliver payment to the Clerk's Office in the form of government voucher,
- 1745 money order, or check made payable to the Illinois Pollution Control
- 1746 Board.
- 1747

1748 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1749

1750 **Section 101.1050 Documents Required in Paper or Excluded from Electronic Filing**

- 1751
- 1752 a) The following documents must be filed in paper pursuant to Section
- 1753 101.302(h)(2) of this Part:
- 1754
- 1755 1) The original Agency record required by 35 Ill. Adm. Code 105.212
- 1756 (permit decision or other final decision), 105.302 (CAAPP permit

- 1757 application), 105.410 (leaking UST decision), or 125.208  
1758 (recommendation on tax certification);  
1759  
1760 2) The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST  
1761 Fund eligibility and deductibility);  
1762  
1763 3) The original local siting authority record required by 35 Ill. Adm. Code  
1764 107.302 (pollution control facility siting); and  
1765  
1766 4) An original oversized exhibit (see Section 101.302(j) of this Part).  
1767  
1768 b) A document containing information claimed or determined to be a trade secret, or  
1769 other non-disclosable information pursuant to 35 Ill. Adm. Code 130, is  
1770 prohibited from being filed electronically and must instead be filed only in paper  
1771 pursuant to Section 101.302(h)(3) of this Part. The version of the document that  
1772 is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.  
1773  
1774 c) If a rulemaking proposal contains a document that is protected by copyright law  
1775 (17 USC 101 et seq.) and proposed pursuant to Section 5-75 of the IAPA [5 ILCS  
1776 100/5-75] to be incorporated by reference, that copyrighted document is  
1777 prohibited from being filed electronically and must instead be filed only in paper  
1778 pursuant to Section 101.302(h)(4) of this Part. The remainder of the rulemaking  
1779 proposal may be filed through COOL.  
1780

1781 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1782

1783 **Section 101.1060 E-Mail Service**  
1784

- 1785 a) Except as provided in subsection (b) of this Section, a person required to serve a  
1786 document may serve the document by e-mail, in lieu of serving a paper document,  
1787 if the recipient has consented to e-mail service in the proceeding and has not  
1788 revoked the consent. (See Section 101.1070 of this Subpart.) To serve a  
1789 document by e-mail, it is not necessary to electronically file the document or to  
1790 obtain a State of Illinois digital signature certificate.  
1791  
1792 b) Service of enforcement complaints, administrative citations, and EMSA  
1793 statements of deficiency on a respondent must be made personally, by registered  
1794 or certified mail, or by messenger service. (See Section 101.304(c) of this Part.)  
1795  
1796 c) A person required to serve a document on the hearing officer may serve the  
1797 hearing officer by sending the document to the hearing officer's e-mail address in  
1798 lieu of serving a paper document.  
1799

- 1800 d) When a document is served by e-mail, service is considered complete on the date  
1801 of successful e-mail transmission, except that a document successfully e-mailed  
1802 on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on  
1803 a weekday is deemed served the next business day.
  
- 1805 e) When a document is served by e-mail, documentation of service must be filed  
1806 with the Clerk and served on all persons entitled to service in that proceeding. A  
1807 sample form of affidavit or certificate of e-mail service is available in Appendix  
1808 H to this Part. An affidavit or certificate of e-mail service must be filed with the  
1809 document in question and include the following:
  - 1810 1) The e-mail address of the recipient and the person authorizing the filing;
  - 1811 2) The number of pages in the e-mail transmission;
  - 1812 3) A statement that the document was served by e-mail; and
  - 1813 4) The date and time of the e-mail transmission.
  
- 1818 f) If any computer malfunction precludes the e-mail service of a document, the  
1819 person authorizing the filing must promptly serve the document in paper pursuant  
1820 to Section 101.304(c) of this Part.
  
- 1822 g) Except for final orders of the Board, which the Clerk's Office serves in paper, the  
1823 Clerk's Office may serve Board orders and hearing officer orders by e-mail, in  
1824 lieu of serving paper documents, if the recipient has consented to e-mail service in  
1825 the proceeding and has not revoked the consent. (See Section 101.1070 of this  
1826 Subpart.) The Clerk will record the date and time of e-mail service, consistent  
1827 with subsection (e) of this Section.

1828  
1829  
1830 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1831  
1832 **Section 101.1070 Consenting to Receipt of E-Mail Service**

- 1833 a) In any proceeding, a person may consent to e-mail service of documents in lieu of  
1834 receiving paper documents by filing a "Consent to Receipt of E-Mail Service"  
1835 with the Clerk's Office. A sample form of consent is available in Appendix I of  
1836 this Part.
  
  - 1837 b) Consent to e-mail service may be filed with the Clerk's Office at any time during  
1838 the proceeding. To accept e-mail service, it is not necessary to obtain a State of  
1839 Illinois digital signature certificate.
- 1840  
1841  
1842

- 1843 c) A person's consent to receiving e-mail service may be revoked by that person at  
1844 any time during the proceeding upon the person's filing of a notice of the  
1845 revocation with the Clerk's Office.
- 1846
- 1847 d) Upon a change in the e-mail address of a recipient of e-mail service, the recipient  
1848 must file a notice of the e-mail address change with the Clerk's Office for each  
1849 proceeding in which the person has consented to e-mail service.

1850  
1851 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1852

1853 Section 101.APPENDIX E Affidavit or Certificates of Service

1854

1855 Section 101.ILLUSTRATION A Service by Non-Attorney

1856

1857 AFFIDAVITPROOF OF SERVICE

1858

1859 I, the undersigned, on oath [or affirmation] state that I have served on the date of \_\_\_\_\_, the  
1860 attached [describe document served], by [describe method of service], upon the following  
1861 persons:

1862

{[list persons served and the respective address at which they were served]}

1863

[signature]

1864

1865

1866

1867

Notary Seal

1868

1869

1870

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

1871

1872

1873

1874

\_\_\_\_\_  
Notary Public

1875

1876

(Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1877

1878 **Section 101.APPENDIX E Affidavit or Certificates of Service**

1879

1880 **Section 101.ILLUSTRATION B Service by Attorney**

1881

1882

1883

CERTIFICATE OF SERVICE

1884 I, the undersigned, certify that I have served the attached [describe document served], by

1885 [describe method of service], upon the following persons:

1886

1887 [list of persons served and the respective addresses at which they were served]

1888

1889 [signature]

1890

1891 [date]

1892

1893 (Source: Amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

1894

1895 Section 101.APPENDIX H Affidavit or Certificate of E-Mail Service

1896  
1897 Section 101.ILLUSTRATION A E-Mail Service by Non-Attorney

1898  
1899 AFFIDAVIT OF E-MAIL SERVICE

1900  
1901 I, the undersigned, on oath [or affirmation] state the following:

1902  
1903 That I have served the attached [describe document served] by e-mail upon [identify  
1904 person served] at the e-mail address of [identify e-mail address of person served].

1905  
1906 That my e-mail address is \_\_\_\_\_ :

1907 That the number of pages in the e-mail transmission is \_\_\_\_ :

1908 That the date and time of the e-mail transmission are \_\_\_\_\_ :

1909  
1910  
1911 [signature]

1912  
1913 Notary Seal

1914  
1915 SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ :

1916  
1917  
1918  
1919  
1920 \_\_\_\_\_  
Notary Public

1921  
1922 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)  
1923



1924 **Section 101.APPENDIX I Consent to Receipt of E-Mail Service**

1925

1926 **BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

1927

1928 \_\_\_\_\_ )

1929 Applicable Caption )

1930 (see Appendix A) ) docket number

1931 \_\_\_\_\_ )

1932

1933 I, the undersigned, authorize the service of documents on me by e-mail in lieu of receiving paper  
1934 documents in the above-captioned proceeding. My e-mail address to receive service is as  
1935 follows: \_\_\_\_\_.

1936

1937 [signature]

1938

1939 [date]

1940

1941 (Source: Added at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)