

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 1987

IN THE MATTER OF: )  
 )  
PROCEDURAL RULES ) R82-27  
 ) R82-36 Consol.  
 ) R83-37  
 )

ORDER OF THE BOARD (by J. Theodore Meyer):

The Board hereby adopts the following amendments to Title 35: Environmental Protection; Subtitle A: General Provisions; Chapter I: Pollution Control Board; Part 102: Regulatory and other Noncontested Hearings and Proceedings. However, the Clerk is directed not to submit these rules for first notice publication until such time as the remaining rules in this subtitle are similarly adopted. Please note that no changes have been approved for Subparts G, I, and O as these subparts are currently in first notice. These subparts have been included, however, for convenience. The rules as hereby amended follow:

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

PART 102  
REGULATORY AND OTHER ~~NONADJUDICATIVE~~ NONCONTESTED  
HEARINGS AND PROCEEDINGS

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APPENDIX Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 22.4(a), 27 and 28 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111<sup>1/2</sup>, pars. 1005, 1022.4(a), 1027 and 1028) and Section 4 of "An Act in relation to natural resources, research, data collection and environmental studies" (Ill. Rev. Stat. 1985, ch. 96<sup>1/2</sup>, par. 7404) and authorized by Section 26 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111<sup>1/2</sup>, par. 1026).

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part II: Regulatory and Other Nonadjudicative Hearings and Proceedings, in R70-4, 1 PCB 43, October 8, 1970; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1398, effective January 16, 1985; amended in R82-27, R82-36 and R83-37 at Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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

PART 102  
REGULATORY AND OTHER ~~NONADJUDICATIVE~~  
NONCONTESTED HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

Section 102.101 Applicability

This Part shall apply to all regulatory and other ~~nonadjudicative noncontested case~~ hearings and proceedings procedures. Hearings conducted pursuant to this Part shall be deemed in the nature of conducted similarly to legislative hearings, except that all testimony shall be sworn, and all affected persons taking part shall be considered participants, rather than parties as in contested cases. Unless the contrary is clearly indicated, all references to "Parts" or "Sections" are to Illinois Administrative Code, Title 35: Environmental Protection. For example, "Part 309" is 35 Ill. Adm. Code 309, and "Section 309.101" is 35 Ill. Adm. Code 309.101

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

Section 102.102 Adoption of Substantive Regulations

- a) No substantive regulation shall be adopted, amended or repealed by the Board until after a public hearing. In the case of site-specific rules or rules not of general applicability, a public hearing shall be held within the area of the state concerned affected and in the case of state-wide regulations, until public hearings are held shall be held in at least two areas of the state.
  
- b) In adopting any such new regulation, the Board shall consider those elements detailed in the DENR's economic impact study of such regulation and the Board shall, in its written opinion, make a determination, based upon the economic impact study and other evidence in the public hearing record, as to whether the proposed regulation has any adverse economic impact on the people of the State of Illinois. When the Board finds that a severe Public health emergency is involved in relation to any proposed regulation, the Board may provide that such regulation shall take effect without delay and permit the Board to proceed with the required economic impact hearings while the regulation continues in effect.
  
- c) When the Board finds that a situation exists which reasonably constitutes a threat to the public interest, safety or welfare in relation to any proposed regulation, the Board may provide that such regulation shall take effect without delay and may proceed with any required hearings while the regulation continues in effect.

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

Section 102.103 Adoption of Procedural Rules

Unless a hearing is requested pursuant to Section 5.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, par. 1005.01) procedural rules may be adopted, amended or repealed by the Board without hearing, pursuant to Section 26 of the Act.

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

SUBPART B: PROPOSAL OF REGULATIONS

Section 102.120 Proposal of Substantive Regulations

Any person may submit a regulatory proposal for the adoption, amendment, or repeal of a substantive regulation. Ten (10) copies of each proposal shall be filed with the Clerk and one copy each with the Attorney General, the Agency and DENR. Each proposal shall include:

- a) The language of the proposed regulation or amendment including a specification of the existing regulatory language proposed to be amended or deleted; and
- b) A statement of the reasons supporting the proposal including a short and plain statement of facts known to the proponent which support the proposal, and a short and plain statement of the purpose and effect of the proposal. The applicable factors as listed in Section 27 of the ~~Environmental Protection Act (Act)~~ shall be discussed in regard to the proposal. Where the proposal covers more than one substantive point, the supporting statement shall include statements in support of each point.

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

#### Section 102.121 Authorization of Hearing

- a) If the proposal is made by the Agency, the Institute, or a Board Member, or if it is accompanied by a petition signed by at least 200 persons with home address specified, the Clerk shall assign a docket number to the any proposal and distribute copies to each Board Member. If the proposal is not made by the Agency or the Institute the Chairman shall place the matter on the agenda for Board decision whether or not to authorize a hearing. The Board shall authorize a hearing unless it determines that the proposal is If the Board finds that any such proposal is not plainly devoid of merit, or does not deals with a subject on which a hearing has been held within the preceding 6 months and or is not accompanied by an adequate statement of supporting reasons and a petition signed by at least 200 persons, the Board shall schedule a public hearing for consideration of the proposal. If a proposal is made by the Agency or DNS or DENR, the Board shall schedule a public hearing without regard to the above conditions. The Board may, in its discretion, schedule a public hearing upon any proposal without regard to the above conditions. If the Board rules against a hearing, it shall enter an order setting forth its reasons for so ordering and shall notify the proponent of its decision. The Board may hold a hearing on any proposal that does not meet the requirements of this section.

- b) If the proposal is made by the Agency ~~the Institute or DENR or a Board Member~~, or if the Board authorizes a hearing, the Chairman shall designate an attending Board Member. ~~and shall notify the proponent of such designation.~~ A member of the Board may serve as Hearing Officer if otherwise qualified, and such hearing need not be attended by another member of the Board.
- c) In the case of a proposed regulatory change under the provisions of 35 Ill. Adm. Code 302.211(j) or 304.141(c), the requirement of Section 102.121(a) relating to a requirement of 200 signatures shall not apply; in such case only a single hearing shall be required, to be held in the area to be affected.
- d) ~~The Clerk shall forward a copy of all proposed regulations authorized for hearing to the Institute and, if not proposed by the Agency, a copy to the Agency.~~
- e) The Board may consolidate two or more proposals for the purpose of hearings and or decision.

(Source: Amended at 11 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 102.122 Notice of Hearing

- a) The Hearing Officer, after appropriate consultation with the proponent, shall set a time and place for hearing which shall be within a reasonable time after the date on which the proposal was received by the Clerk. The Clerk shall give notice at least 20 days prior to of the date of the hearing as follows:
  - 1) At least 30 days prior to the hearing date, to the proponent, by mail;
  - 2) To all persons on the Board's mailing list through notice in the Board's Environmental Register ~~or by special mailing;~~ and
  - 3) At least 30 days prior to the hearing date, Bby public advertisement in a newspaper of general circulation in the area of the state affected.
- b) At least 20 days prior to the hearing date, the hearing officer shall give notice by mail to all persons who have submitted their names and addresses to the Clerk concerning the proposal.

- cb) The Board shall make available to any person copies of proposed regulations and supporting statements at the time the hearing date is announced.
- de) Hearings which are continued on the hearing record for a period of less than 45 days do not require notice that complies with subsection (a).

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

Section 102.123 Proposal of RCRA Amendments

- a) As used in this Part, "RCRA rules" shall mean 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724 and 725.
- b) Any proposal to amend the RCRA rules shall:
  - 1) Indicate whether it is made pursuant to the provisions of Section 22.4(a), 22.4(b) or 22.4(c) of the Act;
  - 2) Include a listing of all amendments to the corresponding Federal regulations since the last amendment of the Board's RCRA rules;
  - 3) Include a certificate of service indicating that a copy of the proposal has been served on the United States Environmental Protection Agency. Service shall be made at the following address:

Director, Waste Management Division  
USEPA, Region V  
230 South Dearborn Street  
Chicago, Illinois 60604

Section 102.124 Notice of Site-Specific RCRA Proposals

- a) Public notice of hearings on site-specific RCRA proposals shall be given at least 30 days before the date of the hearing.
- b) In addition to the requirements of Section 28 of the Act and Section 102.122, the Board, at a minimum, will give notice of hearings on a site-specific RCRA proposal to the following persons:
  - 1) Federal agencies as designated by the United States Environmental Protection Agency;
  - 2) Illinois Department of Transportation;

- 3) Illinois Department of Conservation;
  - 4) Illinois Department of Energy and Natural Resources
  - 5) Illinois Department of Public Health;
  - 6) The Governor of any other State adjacent to the County in which the facility is located;
  - 7) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility.
- c) In addition to the methods of notice by publication of Section 28 of the Act and Section 102.122, the Board will give notice by broadcast over at least one radio station in the area of the facility containing the information required by paragraphs (d)(2) and (d)(4) through (d)(8).
- d) A hearing notice on a site-specific RCRA proposal will include the following information:
- 1) The address of the Board office;
  - 2) Name and address of the proponent and, if different, of the facility for which the site-specific rule is sought;
  - 3) A brief description of the business conducted at the facility and the activity described in the petition;
  - 4) A description of the relief requested in the petition;
  - 5) Name, address and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the proposal; and
  - 6) The name, address and telephone number of the Agency's representative in the rulemaking;
  - 7) A description of any written comment period or a statement that a comment period will be established in the future;



- 8) A statement that the record in the rulemaking is available at the Board office for inspection, except those portions which are claimed or determined to be trade secrets, and that procedures are available whereby disclosure may be sought by the public pursuant to 35 Ill. Adm. Code 120.
- 9) A statement that site-specific rules may be adopted pursuant to Ill. Rev. Stat. 1985, ch. 111<sup>1/2</sup>, pars. 1027 et seq. and 35 Ill. Adm. Code 102, and a reference to the Board regulations sought to be modified.
- 10) Any additional information considered necessary or proper.

Section 102.125      Proposal of Procedural Regulations

Any person may submit a proposal for adoption, amendment or repeal of a procedural rule. Ten (10) copies of each proposal shall be filed with the Clerk, and one copy each with the Attorney General, the agency and DENR, and shall include the information specified in Section 102.120 to the extent applicable.

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

Section 102.126      Authorization and Notice of Hearing

- a) Upon filing, the procedural regulatory proposal shall be docketed and distributed by the Clerk and placed on the Board agenda pursuant to Section 102.121. The Board may authorize one or more hearings at its discretion.
- b) Designation of an attending Board member and notice of any hearing authorized pursuant to subsection (a) shall be in accordance with Sections 102.121(b) and 102.122.

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

SUBPART C: ~~DISCOVERY~~ PRODUCTION OF EVIDENCE

Section 102.140      ~~Discovery~~ Production of Evidence

- a) The board or the Hearing Officer on behalf of the Board may issue subpoenas for attendance of a witness at a hearing under this Part. Subpoenas may include a command to produce books, papers, documents, or tangible things designated therein and reasonably necessary to

resolution of the matter under consideration. Subpoenas shall conform to the requirements of Section 103.163(b) and (c).

- b) The Hearing Officer may at any time on his own motion, or on motion of any participant, or at the direction of the Board, order the production of evidence which is reasonably necessary to resolution of the matter under consideration. As justice requires, the Hearing Officer shall deny, limit, condition or regulate the production of evidence to prevent unreasonable delay, expense, harassment, or oppression or to protect materials from disclosure consistent with the provisions of Section 7 and 7.1 of the Act and 35 Ill. Adm. Code 120.

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

#### SUBPART D: HEARINGS

##### Section 102.160 Authority of Hearing Officer

The Hearing Officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete record. He shall have all powers necessary to these ends including (but not limited to) the authority to:

- a) Require and establish a schedule for, and notice and distribution of, any prior submission of expert testimony and written exhibits before hearing and rebuttal testimony and exhibits;
- b) Require all parties participants to state their position with respect to the proposal;
- c) Administer oaths and affirmations;
- d) Examine witnesses and direct witnesses to testify;
- e) Regulate the course of the hearing;
- f) Establish reasonable limits on the frequency and duration of the testimony of any witness and limit repetitious or cumulative testimony; and
- g) Issue, Wwhen so directed by the Board, to issue an order requiring the answering of interrogatories in the name of the Board or order the production of evidence as specified in 102.140(b).

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

Section 102.161 Examination of Witnesses

- a) Reasonable Examination of witnesses by any member of the Board, by Board staff, by the Hearing Officer, by the proponent, of the regulations under consideration, by representatives of the Agency, by the Institute, by the Agency, by DENR, by DNS, or by the Attorney General or by any other person shall be permitted. Reasonable examination by any other person shall be permitted by the Hearing Officer. Repetitious examination may be limited by the Hearing Officer.
- b) All witnesses at hearings shall be sworn.

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

Section 102.162 Prior Submissions

When prior submission of written testimony is required or tendered, 10 copies shall be filed with the Clerk, and one copy each with the Agency and, if participants, with DNS, the Attorney General, and DENR. Rebuttal testimony and exhibits may also be tendered in writing, not later than 14 days after the hearing on the direct testimony and exhibits. One copy shall also be filed with each participant unless otherwise specified or limited by the Hearing Officer or the Board. Notice of requirement for prior submission of written testimony and exhibits shall be given to all persons required to be notified by Section 102-122 participants not later than 21 days prior to the date that the testimony is to be given.

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

Section 102.163 Written Submissions Comments

Any person may make a written submission comments on any proposal within 14 days of the close of the hearing or within 14 days after regulation revision under Section 102.200 by filing it with the Clerk and the parties, participants unless otherwise specified or limited by the Hearing Officer or the Board. The record will remain open for statements for 14 days following the close of the hearing, unless the Hearing Officer or Board directs otherwise.

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

Section 102.164 Record

All testimony shall be recorded stenographically. When the transcript is filed with the Clerk, the Hearing Officer shall receive and rule on corrections from any person who may examine the transcript for accuracy. Failure of any witness to correct the transcript within 14 days after its receipt in Board offices shall constitute a waiver of any right to correct, unless undue prejudice results. The transcript as so approved, all written testimony, all exhibits offered in connection with the hearing, and all written submissions comments filed with the Clerk under Sections 102.163 and 102.200 before or after the close of the hearing shall constitute the record. ~~The Clerk shall certify the record to the Board when it is complete.~~

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

SUBPART E: ECONOMIC IMPACT HEARINGS

Section 102.180 Hearings on the Economic Impact Study of New Proposals

- a) Except as otherwise provided in Ill. Rev. Stat. 1985, ch. 96<sup>1/2</sup>, par. 7404(d) or the Act, the Board, before the final adoption of any proposed regulations, or amendment to existing regulations, shall conduct hearings on the economic impact study submitted by DENR on such proposals.
- b) The provisions of this Part shall govern all hearings held pursuant to this section.
- c) Hearings held pursuant to this section may be consolidated with any other hearings held pursuant to this Part.
- d) In order to implement the provisions of Ill. Rev. Stat. 1985, ch. 96<sup>1/2</sup>, par. 7404(d), the Board shall determine when to notify the Director of DENR of its decision to accept a regulatory proposal for hearings. If DENR, in concurrence with the Economic and Technical Advisory Committee, has submitted a finding that an economic impact study is not necessary, the Clerk shall place the submittal in the record. The Board shall publish such finding in the Environmental Register.

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

Section 102.181 Hearings on the Economic Impact Study of Existing Regulations

- a) Within a reasonable time, but not longer than 120 days, after each economic impact study has been filed, the Board shall conduct public hearings throughout the State on such study.
- b) The provisions of this Part shall govern all hearings held pursuant to this section.
- c) Upon conclusion of the hearings, the Board shall publish its findings and conclusions on the areas covered by the study and the testimony received by the Board.
- d) The Board shall also specifically determine whether, as a result of its findings and conclusions, any regulations of the Board shall be modified or eliminated.
- e) If the Board concludes that modification or elimination may be necessary, it shall propose such modification as regulations and conduct further hearings on said modification.
- f) Any such proposed modifications shall not require any additional economic impact study.

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

#### SUBPART F: BOARD ACTION

##### Section 102.200 Revision of Proposed Regulations

- a) After a rulemaking hearing, the Board may revise the proposed regulations before adoption in response to suggestions made at the hearing and written submissions comments received subsequent thereto, without conducting a further hearing on the revisions. The Board shall specify the portions of the final form of the regulations that differ from the proposal on which the hearing was held, shall send such statement of revisions to persons heard on the original proposal, and shall give notice to all persons on the Board's mailing list that such a statement is available. Any person may make a written submission concerning any revision by filing it with the Clerk within 14 days after such notice. The Board, in its discretion and in response to the written comments submitted on the proposed final draft, may make further revision on the proposed regulation. Such final regulation may be adopted without further hearing or publication in the Environmental Register.

- b) The Board may modify and subsequently adopt any proposed regulations, or amendments to existing regulations without any additional economic impact study; provided that such modification by the Board does not significantly alter the intent and purpose of the proposed regulation which was the subject of the economic impact study.

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

Section 102.201 Notice of Adopted Regulations Board Final Action

Any person heard on the original proposal, who has requested notice and who has submitted his or her name and address to the Clerk concerning the proposal or is on the Board's mailing list, shall be given notice of the Board's final action. Notice of the Board's final action shall also be published in the Environmental Register. The Clerk shall file an affidavit of compliance with this section. The Board shall publish a written opinion stating its reasons supporting the regulations as adopted final action taken.

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

SUBPART G: PROPOSAL OF SITE-SPECIFIC RULES  
AND RULES NOT OF GENERAL APPLICABILITY

Section 102.220 Proposal of Regulation Not  
of General Applicability

Any person or group of persons may submit a written proposal for the adoption, amendment or repeal of a substantive regulation not of general applicability as it applies to a specific site or sites, geographical location, activity or common issue. Ten (10) copies of each proposal shall be filed with the Clerk and one copy each with the Agency and DENR.

(Source: Former Section 102.220 renumbered to new Section 102.400; new Section 102.220 adopted at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 102.221 Contents of Proposal

- a) The proposal shall identify the regulations which are to be addressed by the proposed amendment and the language to be added, deleted or repealed.
- b) Except as otherwise provided in the Act, the proposal shall include a statement of the reasons and facts supporting the

proposal and the purpose and effect of the proposal as provided in this Subpart. The minimum information required by this Subpart shall be addressed in the proposal.

- c) In the event that the proposed rule would displace the applicability of a general rule to the pollution source, the proposal shall include a statement with supporting documentation as to why the general rule is not technically feasible or economically reasonable for the particular pollution source. Such documentation may include relevant information on other similar pollution sources' ability to comply with the general rule.
- d) Where special circumstances may render any information requested in this Subpart inapplicable, for reasons of expense of data collection in relation to the relevancy of the data or other similar reasons, the petitioner shall include a justification for such inapplicability.

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

#### Section 102.222 Dismissal for Inadequacy

Failure of the petitioner to satisfy the information requirements for petitions under this Subpart or failure to respond to Board requests for additional information shall render a petition subject to dismissal for inadequacy.

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

#### Section 102.223 Conduct of Proceeding

- a) If the Board finds that a proposal is supported by an adequate statement of reasons, is accompanied by a petition signed by at least 200 persons, is not plainly devoid of merit, and does not deal with a specific subject on which a hearing has been held within the preceding 6 months, the Board shall schedule a public hearing for consideration of the proposal. The Board may also in its discretion schedule a public hearing upon any proposal without regard to the above conditions.
- b) No decision shall be made on the merits of a proposal until after a public hearing within the area of the State concerned. In the case of non site-specific regulations, hearings shall be held in at least two areas of the state.

- c) The burden of persuasion shall be upon the record. The Board may adopt the proposal in its discretion in accordance with Section 27 of the Act. Adoption or revision of the proposal shall be in accordance with Subpart F.
- d) The Board may consolidate two or more proposals for the purposes of hearing and decision.
- e) If a hearing is authorized by the Board, the Chairman shall designate an attending Board member. The Board member may serve as Hearing Officer if also otherwise qualified.
- f) Hearings shall be scheduled in accordance with Section 102.122. Hearings shall be conducted in accordance with Subpart D.

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

SUBPART I: SITE-SPECIFIC PROPOSALS PERTAINING TO  
SUBTITLE C: WATER POLLUTION

Section 102.260 Description of Facility

All proposals shall describe the facility for which the change is sought including:

- a) The location, either by street or county road, or by legal description and a map adequate to identify the facility's location and other nearby relevant physical features;
- b) The activity performed at the facility and processes and materials used;
- c) The waste material produced or discharged including quantity, in terms of volume or flow rate, and content, in terms of concentration or mass load, of pertinent physical, thermal, chemical, biological, bacterial, and radioactive properties; and
- d) The type of treatment or control and the components of the treatment system or control equipment currently employed or proposed.

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

Section 102.261 Description of Affected Area



All proposals shall describe:

- a) The extent of the receiving waters affected by the proposal;
- b) The present and anticipated future public and private uses of and access to the affected waters;
- c) The nature of the surrounding land uses, zoning and population characteristics; and
- d) The other facilities that might benefit from or be adversely affected by the proposal within the affected area.

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

Section 102.262      Assessment of Environmental Impact

- a) All proposals shall describe:
  - 1) The aquatic uses currently being achieved in the affected waters;
  - 2) The causes of any impairment in the aquatic uses; and
  - 3) The aquatic uses which might be attained based on the physical, chemical and biological characteristics of the affected waters.
- b) All proposals shall describe the condition of and the environmental impact upon the affected waters under current operations with respect to:
  - 1) The attainment of and compliance with presently applicable water quality standards;
  - 2) The ability to support currently designated uses as contained in Subtitle C, 35 Ill. Adm. Code 303; and
  - 3) The ability to support any higher level uses other than currently designated in Subtitle C, 35 Ill. Adm. Code 303.
- c) All proposals shall describe the condition of and the environmental impact upon the affected waters if the proposal were adopted with respect to:
  - 1) The attainment of and compliance with presently applicable water quality standards;

- 2) The ability to support currently designated uses as contained in Subtitle C, 35 Ill. Adm. Code 303; and
- 3) The ability to support any higher level uses other than currently designated in Subtitle C, 35 Ill. Adm. Code 303.

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

Section 102.263 Consistency with Federal Law

- a) All proposals shall indicate whether relief can be granted consistent with the Clean Water Act (33 U.S.C. 1251 et seq.), U.S.E.P.A. water quality guidelines and standards, any other federal regulation or any wastewater treatment management plan certified and approved pursuant to Section 208 of the Clean Water Act.
- b) Any proposal requesting relief from a specific water quality standard contained in Subtitle C, 35 Ill. Adm. Code 302, use designation contained in Subtitle C, 35 Ill. Adm. Code 303 or Section 304.105, or necessitating relief or relaxation of any such rule in order to realize the benefit intended by the proposal shall include a statement of the proposal's consistency with U.S.E.P.A. water quality standards and use designation criteria as contained in 40 CFR 131. Such statement shall include an identification of the pertinent technical evaluations relative to use attainability, comprehensive pollutant source control strategies, and the social and economic implications consistent with the intent of 40 C.F.R. 131 and the technical criterial promulgated thereunder.

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

Section 102.264 Evaluation of Control Options

All proposals shall describe the treatment or control options including costs and efficiencies, as to:

- a) The present levels of control;
- b) The past efforts to obtain compliance with applicable regulations; and
- c) Any available or proposed control options including the elimination of the source.

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

SUBPART O: OTHER PROCEEDINGS

Section 102.400 Other Proceedings

The Board may conduct such other nonadjudicative or informational hearings as may be necessary to accomplish the purposes of the Act. Such other hearings shall be conducted according to these rules to the extent applicable.

(Source: Renumbered from Section 102.220 at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

APPENDIX A (Repealed)  
OLD RULE NUMBERS REFERENCED

The following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification:


Chapter 1: Procedural	35 Ill. Adm. Code Parts 101-107
Part II: Regulatory and other Non-adjudicative hearings and Proceedings	Part 102: Regulatory and other Non- adjudicative hearings and Proceedings
Rule 201	Section 102-101
Rule 202	Section 102-102
Rule 203	Section 102-120
Rule 204	Section 102-121
Rule 205	Section 102-122
Rule 206	Section 102-160
Rule 207	Section 102-140
Rule 208	Section 102-161
Rule 209	Section 102-162
Rule 210	Section 102-163
Rule 211	Section 102-164
Rule 212	Section 102-200
Rule 213	Section 102-201
Rule 21	Section 102-180
Rule 215	Section 102-181
Rule 216	Section 102-220

(Source: Repealed at 11 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

Board Member B. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16<sup>th</sup> day of April, 1987, by a vote of 5-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board