



# TABLE OF CONTENTS

February 13, 2015 Volume 39, Issue 7

## PROPOSED RULES

NATURAL RESOURCES, DEPARTMENT OF	
Conservation Stewardship Program	
17 Ill. Adm. Code 2580.....	2235
PUBLIC HEALTH, DEPARTMENT OF	
Rules Governing the Reporting of Reye's Syndrome (Repealer)	
77 Ill. Adm. Code 663.....	2245
Control of Communicable Diseases Code	
77 Ill. Adm. Code 690.....	2251
STATE POLICE, DEPARTMENT OF	
Non-Court Ordered Juvenile Record Expungement	
20 Ill. Adm. Code 1206.....	2262
STATE UNIVERSITIES CIVIL SERVICE SYSTEM	
State Universities Civil Service System	
80 Ill. Adm. Code 250.....	2267

## ADOPTED RULES

POLLUTION CONTROL BOARD	
General Rules	
35 Ill. Adm. Code 101.....	2276
Regulatory and Informational Hearings and Proceedings	
35 Ill. Adm. Code 102.....	2333
Enforcement	
35 Ill. Adm. Code 103.....	2349
Regulatory Relief Mechanisms	
35 Ill. Adm. Code 104.....	2357
Appeals of Final Decisions of State Agencies	
35 Ill. Adm. Code 105.....	2369
Proceedings Pursuant to Specific Rules or Statutory Provisions	
35 Ill. Adm. Code 106.....	2375
Petition to Review Pollution Control Facility Siting Decisions	
35 Ill. Adm. Code 107.....	2391
Administrative Citations	
35 Ill. Adm. Code 108.....	2397
Tax Certifications	
35 Ill. Adm. Code 125.....	2402
Identification and Protection of Trade Secrets and Other Non-Disclosable Information	
35 Ill. Adm. Code 130.....	2408
STATE BOARD OF EDUCATION	
Standards for Endorsements in Early Childhood Education and in Elementary Education	

23 Ill. Adm. Code 26.....	2413
Student Records	
23 Ill. Adm. Code 375.....	2449
<b>JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
February Agenda.....	2457
<b>SECOND NOTICES RECEIVED</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices	
Received.....	2463

## INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015

22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Conservation Stewardship Program
- 2) Code Citation: 17 Ill. Adm. Code 2580
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2580.10	Amendment
2580.20	Amendment
2580.30	Amendment
2580.60	Amendment
2580.110	Amendment
2580.120	Amendment
2580.140	Amendment
2580.160	Amendment
2580.170	Amendment
2580.180	Amendment
- 4) Statutory Authority: Implementing and authorized by the Conservation Stewardship Law [35 ILCS 200/Art. 10, Div. 16]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify eligibility, as well as the required management plan and non-compliance.
- 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 rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Anne Mergen, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

217/782-6899

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - 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: January 2015

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER f: ADMINISTRATIVE SERVICESPART 2580  
CONSERVATION STEWARDSHIP PROGRAM

Section	
2580.10	Definitions
2580.20	Eligibility
2580.30	Conservation Management Plan Development
2580.40	Taxpayer Contact Information
2580.50	Location of Managed Land
2580.60	Map of Managed Land
2580.70	Description of Managed Land
2580.80	Recent History of Managed Land
2580.90	Plants and Animals Present
2580.100	Adjacent Land Use
2580.110	Management Objectives
2580.120	Management Practices
2580.130	Protection Measures
2580.140	Exotic/ <del>Non-Native</del> <u>Invasive</u> Species
2580.150	Uses of Managed Lands to be Allowed by <del>Landowner</del> <u>Landowner</u>
2580.160	Taxpayer Signature
2580.170	Plan Review and Appeal Procedures
2580.180	Conservation Management Plan Non-Compliance

AUTHORITY: Implementing and authorized by the Conservation Stewardship Law [35 ILCS 200/Art. 10, Div. 16].

SOURCE: Adopted by emergency rulemaking at 31 Ill. Reg. 16751, effective December 6, 2007; adopted at 32 Ill. Reg. 7778, effective April 30, 2008; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 2580.10 Definitions**

"Conservation Management Plan" means a plan approved by the Department of Natural Resources that specifies conservation and management practices, including uses that will be conducted to preserve and restore unimproved land.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

"Conservation Stewardship Program" or "CSP" means the program described in this Part designed to incentivize landowners to maintain, preserve, conserve and manage unimproved land by reducing the valuation of property taxes of landowners with a conservation management plan approved by the Department.

"Contiguous" means not separated by anything other than rivers, streams, road or right-of-way easement.

"Department" means the Illinois Department of Natural Resources.

"Managed Land" means unimproved land of 5 contiguous acres or more that is subject to a conservation management plan.

"Materially Disturbs the Land" means to degrade the natural state of the land.

"Unimproved Land" means woodlands, prairie, wetlands or other vacant and undeveloped land that is not used for any residential or commercial purpose that materially disturbs the land.

"Wooded Acreage" means unimproved land that is predominately tree and shrub cover.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.20 Eligibility**

- a) A taxpayer who has a conservation~~Conservation~~ management plan~~plans will be accepted only~~ for unimproved land of 5 ~~contiguous acres~~ or more contiguous acres may be accepted into the Conservation Stewardship Program. Unimproved land in Cook County is not eligible for the special valuation under this Section.
- b) A taxpayer may apply for reassessment under this Section, and shall not be penalized for doing so, if the taxpayer owns land:
  - 1) included in a forestry management plan under Section 10-150 of the Property Tax Code [35 ILCS 200/10-150];

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 2) registered or encumbered by conservation rights under Section 10-166 of the Property Tax Code [35 ILCS 200/10-166]; or
  - 3) registered as a Land and Water Reserve under Section 16 of the Natural Areas Preservation Act [525 ILCS 30/16].
- c) A taxpayer may apply for reassessment of land formerly assessed as farmland under Sections 10-110 through 10-145 of the Property Tax Code [35 ILCS 200/10-110 through 10-145] during the first year in which the land is not used for farm purposes as defined in Section 1-60 of the Property Tax Code. The special valuation offered under this Section cannot be applied to land formerly assessed as farmland until the second year in which the land is not used for farm purposes.
- d) A taxpayer must have legal access to the property that is being enrolled.
- e) CSP plans expire every 10 years. For continuous CSP tax valuation, taxpayers must reapply for CSP prior to their 10-year contract expiring or there is a change in ownership of acreage enrolled in CSP.
- f) New landowners of previously enrolled CSP properties may submit an application for enrollment only after they have taken control of the property.
- g) A taxpayer must timely pay all tax debts on the CSP property, and the CSP property must not be in foreclosure at any time during the enrollment process or during enrollment in CSP.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.30 Conservation Management Plan Development**

- a) A taxpayer requesting special valuation of unimproved land under this Section must first submit a conservation management plan for that land to the Department for review. The submission of an application for a conservation management plan under Section 10-415 of the Property Tax Code [35 ILCS 200/10-415] or of a forestry management plan under Section 10-150 of the Property Tax Code shall be treated as compliance with the requirements of that plan until the Department can review the application. The conservation management plan may be prepared by the taxpayer or his/her representative and shall include those items listed under

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Sections 2580.40 through 2580.160. The Department shall provide a means for submittal of conservation management plans via the Internet at <http://dnr.state.il.us>. Conservation management plans may also be submitted to the Department as a hard copy via standard means of delivery. Conservation management plans submitted in hard copy should be sent to:

Conservation Stewardship Program  
Office of Resource Conservation  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271

- b) A taxpayer whose eligibility is based on Section 2580.20(b) shall not be required to submit ~~a new~~~~an original~~ conservation management plan if a management plan prepared as a condition of the programs listed in Section 2580.20(b) has been approved by the Department.
- c) Management plans prepared for participation in other conservation programs administered by the Department and approved by the Department will be accepted as a conservation management plan provided that the plan includes a description of the managed land and specifies the conservation and management practices to be implemented on the managed land as required by Section 10-410 of the Property Tax Code.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.60 Map of Managed Land**

~~Maps~~~~A map~~ of the enrolled managed land and vicinity shall be included. The map shall be at a minimum scale of 2 inches to the mile and shall depict an area large enough to include local landmarks (roads, streams, municipalities, etc.) that will allow a reviewer to locate the managed land within a larger landscape. Maps should be printed on 8" x 11.5" paper or larger. An aerial stand map, a tax assessors Property Index Number map, and a plat book map are required.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.110 Management Objectives**

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

The conservation management plan shall include a description of the ~~specific~~general management objectives to be pursued on the managed land, for example, ~~management~~maintenance of existing habitat types, conversion/restoration to historic habitat type (e.g., woodland, wetland, prairie), reduction of erosion and/or removal of invasive/exotic species. If more than one management objective is to be pursued, each shall be described and the portion of the managed land on which each will be applied shall be specified and delineated on the map included in the conservation management plan.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.120 Management Practices**

- a) The specific management practices (herbicide application, planting, prescribed burning, tree thinning, water control structures, etc.) that will be used to achieve the management objectives shall be described. If a management practice is to be implemented on only a portion of the managed land, the portion on which each practice will be applied shall be specified and delineated on ~~an aerial~~the map included in the conservation management plan.
- b) The description of management practices to be implemented on the managed land shall include a detailed annual implementation schedule for the first ~~five~~two years of management. That schedule shall specify the times at which each management practice will be implemented, the portion of the managed land on which each management practice will be implemented, and the identity of the persons who will implement each management practice (the taxpayer, a private contractor, volunteers from a conservation organization, or others).
- c) The description of management practices to be implemented on the managed land shall include a general annual implementation schedule for the ~~third through~~third through ~~fifth~~tenth years of management. That schedule shall list the management practices that will be implemented on the managed land during each of the calendar years.
- d) During each year of the enrollment period, the landowner shall report to the Department, on an annual basis, the management practices that were implemented the previous year.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

**Section 2580.140 Exotic/Non-Native Invasive Species**

Exotic plants that have been identified on the managed land shall be listed in the conservation management plan. The conservation management plan shall include a description of practicable management practices specifically intended to reduce or eliminate exotic plants from the managed land. No conservation management plan shall include the intentional introduction of exotic plants. For the purposes of this Part, exotic plants shall be those included on a list maintained by the Department available at <http://dnr.state.il.us> or by writing to the Conservation Stewardship Program at the address listed in Section 2580.30(a).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.160 Taxpayer Signature**

A conservation management plan submitted as a hard copy shall be signed and dated by the taxpayer. A conservation management plan submitted via the Internet shall include the electronic signature of the taxpayer. The Department shall provide a certification form that ~~must~~ be signed by the taxpayer and sent to the Department in lieu of an electronic signature.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.170 Plan Review and Appeal Procedures**

- a) The Department will review all conservation management plans received from taxpayers to determine compliance with the Conservation Stewardship Law and other applicable laws and regulations including, but not limited to, the Illinois Endangered Species Protection Act [520 ILCS 10] and the Illinois Natural Areas Preservation Act [525 ILCS 30].
- b) Upon receipt of an application ~~and an approved for a~~ conservation management plan, the Department shall certify to the Department of Revenue the application as being an approved plan for the purpose of the Conservation Stewardship Law (see 35 ILCS 200/10-415(e)). The conservation management plan will be reviewed by the Department. If the plan meets all requirements of the Act, the Department will notify the Department of Revenue of the acceptance of the plan ~~and will provide a copy of the plan to the Department of Revenue~~. If the plan does not satisfy the requirements of the Act, the Department will provide the taxpayer an explanation of the deficiencies and give a date by which a revised plan must be submitted to the Department to maintain eligibility for the special valuation. No

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

more than 90 days will be allowed for revision of ~~all documents~~~~a conservation management plan~~ that ~~does~~ not meet the requirements of the Act on first submission. If the taxpayer fails to submit ~~a revised~~ ~~documentation~~~~conservation management plan~~ by the specified date, the Department will ~~notify the Department of Revenue to~~ remove the taxpayer from the list of those ~~eligible~~~~qualified~~ for the special valuation. The taxpayer will be eligible to resubmit a new application if the deadline was not met for supporting documentation.

- c) Pursuant to Section 10-415(e) of the Property Tax Code, a taxpayer may appeal the denial of a conservation management plan to an independent 3-member panel to be established within the Department. A taxpayer who wishes to appeal the denial of a conservation management plan shall send notice of the intent to appeal to Office of Legal Counsel, ATTN: Conservation Management Appeals, at the address listed in Section 2580.30(a).
- d) Procedures governing the hearing of appeals are set forth in 17 Ill. Adm. Code 2530 – Revocation Procedures for Conservation Offenses.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.180 Conservation Management Plan Non-Compliance**

- a) If the Department determines, based on field inspections or other reasonable evidence, that the land no longer meets the criteria under the Conservation Stewardship Law, the Department shall withdraw all or a portion of the land from the special valuation.
- b) The chief county assessment officer shall notify the Department when the property no longer qualifies for the special valuation because the property no longer meets the land use or minimum acreage requirements.
- c) The chief county assessment officer shall notify the Department when he or she has reasonable evidence that shows non-compliance with the approved conservation management plan. Reasonable evidence must be based on, but not limited to, visual inspection of the property, evidence of improper land use, or the taxpayer's refusal to respond to the chief county assessment officer's request for information about the land use or other similar information pertinent to the continued special valuation of the land. Notification shall be made, in writing, to

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

the Department. Upon receipt, the Department shall, within a reasonable length of time, visually inspect the property and pertinent conservation management plans and shall determine if the owner is complying with the approved management plan. Within 15 days after inspecting the property, the Department shall notify the chief county assessment officer and the Illinois Department of Revenue of its determination. If the property is found to be non-compliant, the chief county assessment officer shall remove the property from the special valuation.

- d) If, after attempting to remind the taxpayer, the Department determines that the taxpayer is not fulfilling its obligation to update and report management activities on CSP-enrolled property, the Department can remove the property from CSP.
- e) If ownership of the enrolled acres changes, the Department will remove them from CSP. However, the new property owner may re-enroll the property.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Rules Governing the Reporting of Reye's Syndrome
- 2) Code Citation: 77 Ill. Adm. Code 663
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
663.5	Repeal
663.10	Repeal
663.20	Repeal
663.30	Repeal
663.40	Repeal
663.50	Repeal
663.60	Repeal
663.70	Repeal
663.80	Repeal
663.90	Repeal
663.100	Repeal
- 4) Statutory Authority: Reye's Syndrome Reporting Act [410 ILCS 245]
- 5) A Complete Description of the Subjects and Issues Involved: The Reye's syndrome Reporting Act became effective in 1981 and was revised in 1982 to mandate guidelines for the study, research, control and prevention of Reye 's Syndrome in Illinois. Statutory references in the rules are outdated and are not concordant with the Department's data release guidelines and protocols. At the time that the Act became effective, Reye's Syndrome was a commonly diagnosed condition in Illinois. However, effective efforts to educate medical providers have significantly reduced the incidence and prevalence of this condition in Illinois. The most recent Illinois case was diagnosed in 1997. Because of the extremely low incidence, the Reye's Syndrome reporting rules will be repealed and Reye's Syndrome reporting will be added to Section 690.295 of the Control of Communicable Diseases Code (77 Ill. Adm. Code 690).

The economic effect on this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: Illinois National Electronic Disease Surveillance System

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

- 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 Objectives: This rulemaking does not impose a State Mandate on units of local government or not-for-profit corporations.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Elizabeth Paton  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5th floor  
Springfield IL 62761

217/782-2043  
dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Local health departments
  - B) Reporting, bookkeeping or other procedures required for compliance: Case records of Reye's Syndrome will be entered into and maintained in the Illinois National Electronic Disease Surveillance System (I-NEDSS).
  - C) Types of professional skills necessary for compliance: Data entry skills
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER i: MATERNAL AND CHILD HEALTH

## PART 663

RULES GOVERNING THE REPORTING OF REYE'S SYNDROME (REPEALED)

## Section

663.5	Authority
663.10	General Considerations
663.20	When to Report
663.30	Reporting
663.40	Report Form
663.50	Forwarding Report
663.60	CDC Reye Syndrome Case Investigation Report
663.70	Confidentiality
663.80	Available Information
663.90	Conditions for Obtaining Information Concerning Patient Identifications
663.100	Results of Research Project

AUTHORITY: Implementing and authorized by Sections 4 and 6 of the Reye's Syndrome Reporting Act (Ill. Rev. Stat. 1981, ch. 111½, par. 5701 et. seq.).

SOURCE: Adopted and codified at 6 Ill. Reg. 9673, effective July 27, 1982; repealed at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 663.5 Authority**

The Director of Public Health is mandated under Ill. Rev. Stat. 1981, ch. 111½, par. 5706, to "Promulgate rules to implement this Act which foster the study, research, diminution, and control of Reye's Syndrome in this State."

**Section 663.10 General Considerations**

To foster the study and control of Reye's syndrome, the Department of Public Health now promulgates rules to set forth the requirements for providing information necessary to accomplish the purpose of the mandate.

**Section 663.20 When to Report**

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

A case of Reye's syndrome shall be reportable under these rules when a patient's attending physician, or a consultant whose services are requested by the attending physician, diagnoses or confirms the presence of the disease.

**Section 663.30 Reporting**

The attending and consulting physician, nurses, hospital administrator, emergency room supervisor, laboratory director and medical record supervisor shall be responsible to ensure that any case of Reye's syndrome is reported as required by these rules within 1 week following the date of diagnosis or confirmation, whichever is later. When a patient is admitted to a hospital, the report shall be made to the infection control practitioner, who shall be responsible for the subsequent reporting of the case to public health authorities. Reports shall be made to the local health authority in whose jurisdiction the reporting health professional practices, or to the Illinois Department of Public Health.

**Section 663.40 Report Form**

The form "Report of a Communicable Disease", furnished by the Illinois Department of Public Health shall be used to report each case. The report shall include: name, address, telephone number, age, sex, and race of the patient; date of onset; name and address of hospital and physician; date of report; and name of person reporting. If the patient is transferred to another hospital, the name and address of the second hospital, name of attending physician, and date of transfer shall also be reported.

**Section 663.50 Forwarding Report**

*When a report is received by a local health authority, it shall be forwarded to the Illinois Department of Public Health.*

**Section 663.60 CDC Reye Syndrome Case Investigation Report**

On receipt of a report of a case of Reye's syndrome, the Department of Public Health shall supply copies of the "CDC Reye Syndrome Case Investigation Report" provided by the U.S. Department of Health and Human Services. The local health authority, hospital administrator, or attending physician shall then be responsible for entering all available information requested on the "CDC Reye Syndrome Case Investigation Report".

**Section 663.70 Confidentiality**

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

All data contained in a report of Reye's syndrome shall be maintained by the Department of Public Health and local health authorities in a manner which protects the confidential patient-physician relationship.

**Section 663.80 Available Information**

Summary and statistical information without individual patient identifications may be made available to persons submitting written inquiries to the Department of Public Health.

**Section 663.90 Conditions for Obtaining Information Concerning Patient Identifications**

Information containing patient identifications, including any data which the Department maintains, may be released by the Department to persons requesting such information when all of the following conditions are fulfilled:

- a) The person requesting the data is trained in scientific investigation and is affiliated with a foundation or institution devoted to medical research.
- b) The protocol for a funded research project shows the need for the data requested, and has been approved by the Director of Public Health.
- c) The person requesting the information shall protect the individual identifying data from further disclosure, in accordance with Section 4 of the "Reye's Syndrome Reporting Act" and these rules.
- d) The person requesting the information has agreed to furnish the Director of the Department of Public Health, within six months after completion of the project, with a written report of the project. When the project is a long term study, annual progress reports shall be supplied to the Department of Public Health.

**Section 663.100 Results of Research Project**

The results of the research project for which the data are used and the publication thereof shall be the responsibility of the investigator to whom the data are provided. In any publication of the results of the project, the Department of Public Health shall be cited as a source of information.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Control of Communicable Diseases Code
- 2) Code Citation: 77 Ill. Adm. Code 690
- 3) Section Number: 690.295                      Proposed Action:  
Amendment
- 4) Statutory Authority: Communicable Disease Report Act [745 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to add the reporting of Reye's Syndrome to reporting requirements under Section 690.295 of this Part. Reporting is currently required under 77 Ill. Adm. Code 663 (Rules Governing the Reporting of Reye's Syndrome), which is being repealed. The Reye's Syndrome Reporting Act became effective in 1981 and was revised in 1982 to mandate guidelines for the study, research, control and prevention of Reye's Syndrome in Illinois. At the time that the Act became effective, Reye's Syndrome was a commonly diagnosed condition in Illinois. However, effective efforts to educate medical providers have significantly reduced the incidence and prevalence of this condition in Illinois. The most recent Illinois case was diagnosed in 1997. Because of the extremely low incidence, the Reye's Syndrome reporting rules will be repealed and Reye's Syndrome reporting will be added to Section 690.295 of the Control of Communicable Diseases Code.

The economic effect on this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 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? Yes

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

Section Number: 690.10      Proposed Action: Amendment      Illinois Register Citation: 38 Ill. Reg. 21756; November 21, 2014

- 11) Statement of Statewide Policy Objectives: This rulemaking does not impose a State Mandate on units of local government or not-for-profit corporations.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Elizabeth Paton  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> floor  
Springfield IL 62761

217/782-2043  
e-mail: dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: Case records of Reye's Syndrome will be entered into and maintained in the Illinois National Electronic Disease Surveillance System (I-NEDSS).
- C) Types of professional skills necessary for compliance: Data entry
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONSPART 690  
CONTROL OF COMMUNICABLE DISEASES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
690.10	Definitions
690.20	Incorporated and Referenced Materials
690.30	General Procedures for the Control of Communicable Diseases

## SUBPART B: REPORTABLE DISEASES AND CONDITIONS

<u>Section</u>	
690.100	Diseases and Conditions
690.110	Diseases Repealed from This Part

## SUBPART C: REPORTING

Section	
690.200	Reporting

SUBPART D: DETAILED PROCEDURES FOR THE CONTROL OF  
COMMUNICABLE DISEASES

Section	
690.290	Acquired Immunodeficiency Syndrome (AIDS) (Repealed)
690.295	Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))
690.300	Amebiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
690.310	Animal Bites (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
690.320	Anthrax (Reportable by telephone immediately, within three hours, upon initial clinical suspicion of the disease)
690.322	Arboviral Infections (Including, but Not Limited to, Chikungunya Fever, California Encephalitis, St. Louis Encephalitis, Dengue Fever and West Nile

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- Virus) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.325 Blastomycosis (Reportable by telephone as soon as possible, within 7 days) (Repealed)
- 690.327 Botulism, Foodborne, Intestinal Botulism (Formerly Infant), Wound, or Other (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease for foodborne botulism or within 24 hours by telephone or facsimile for other types)
- 690.330 Brucellosis (Reportable by telephone as soon as possible (within 24 hours), unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.340 Chancroid (Repealed)
- 690.350 Chickenpox (Varicella) (Reportable by telephone, facsimile or electronically , within 24 hours)
- 690.360 Cholera (Toxigenic *Vibrio cholerae* O1 or O139) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.362 Creutzfeldt-Jakob Disease (CJD) (All Laboratory Confirmed Cases) (Reportable by mail, telephone, facsimile or electronically within Seven days after confirmation of the disease)
- 690.365 Cryptosporidiosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.368 Cyclosporiasis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.370 Diarrhea of the Newborn (Reportable by telephone as soon as possible, within 24 hours) (Repealed)
- 690.380 Diphtheria (Reportable by telephone immediately, within three hours, upon initial clinical suspicion or laboratory test order)
- 690.385 Ehrlichiosis, Human Granulocytotropic anaplasmosis (HGA) (See Tickborne Disease)
- 690.386 Ehrlichiosis, Human Monocytotropic (HME) (See Tickborne Disease)
- 690.390 Encephalitis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.400 Escherichia coli Infections (E. coli O157:H7 and Other Shiga Toxin Producing E. coli, Enterotoxigenic E. coli, Enteropathogenic E. coli and Enteroinvasive E. coli) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.410 Foodborne or Waterborne Illness (Reportable by telephone or facsimile as soon as possible, within 24 hours) (Repealed)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 690.420 Giardiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.430 Gonorrhea (Repealed)
- 690.440 Granuloma Inguinale (Repealed)
- 690.441 Haemophilus Influenzae, Meningitis and Other Invasive Disease (Reportable by telephone or facsimile, within 24 hours)
- 690.442 Hantavirus Pulmonary Syndrome (Reportable by telephone as soon as possible, within 24 hours)
- 690.444 Hemolytic Uremic Syndrome, Post-diarrheal (Reportable by telephone or facsimile, within 24 hours)
- 690.450 Hepatitis A (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.451 Hepatitis B and Hepatitis D (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.452 Hepatitis C, Acute Infection and Non-acute Confirmed Infection (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.453 Hepatitis, Viral, Other (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.460 Histoplasmosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.465 Influenza, Death (in persons less than 18 years of age) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.468 Influenza (Laboratory Confirmed (Including Rapid Diagnostic Testing)) Intensive Care Unit Admissions (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.469 Influenza A, Variant Virus (Reportable by telephone immediately, within three hours upon initial clinical suspicion or laboratory test order)
- 690.470 Intestinal Worms (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.475 Legionellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.480 Leprosy (Hansen's Disease) (Infectious and Non-infectious Cases are Reportable) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.490 Leptospirosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.495 Listeriosis (When Both Mother and Newborn are Positive, Report Mother Only) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 690.500 Lymphogranuloma Venereum (Lymphogranuloma Inguinale Lymphopathia Venereum) (Repealed)
- 690.505 Lyme Disease (See Tickborne Disease)
- 690.510 Malaria (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.520 Measles (Reportable by telephone as soon as possible, within 24 hours)
- 690.530 Meningitis, Aseptic (Including Arboviral Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.540 Meningococemia (Reportable by telephone as soon as possible) (Repealed)
- 690.550 Mumps (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.555 Neisseria meningitidis, Meningitis and Invasive Disease (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.560 Ophthalmia Neonatorum (Gonococcal) (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.565 Outbreaks of Public Health Significance (Including, but Not Limited to, Foodborne or Waterborne Outbreaks) (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.570 Plague (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.580 Poliomyelitis (Reportable by telephone immediately, within three hours) upon initial clinical suspicion of the disease)
- 690.590 Psittacosis (Ornithosis) Due to Chlamydia psittaci (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.595 Q-fever Due to Coxiella burnetii (Reportable by telephone as soon as possible, within 24 Hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.600 Rabies, Human (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.601 Rabies, Potential Human Exposure and Animal Rabies (Reportable by telephone or facsimile, within 24 hours)
- 690.610 Rocky Mountain Spotted Fever (See Tickborne Disease)
- 690.620 Rubella (German Measles) (Including Congenital Rubella Syndrome) (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.630 Salmonellosis (Other than Typhoid Fever) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.635 Severe Acute Respiratory Syndrome (SARS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- 690.640 Shigellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.650 Smallpox (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.655 Smallpox vaccination, complications of (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.658 Staphylococcus aureus, Methicillin Resistant (MRSA) Infection, Clusters of Two or More Laboratory Confirmed Cases Occurring in Community Settings (Including, but Not Limited to, Schools, Correctional Facilities, Day Care and Sports Teams) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.660 Staphylococcus aureus, Methicillin Resistant (MRSA), Any Occurrence in an Infant Less Than 61 Days of Age (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.661 Staphylococcus aureus Infections with Intermediate (Minimum inhibitory concentration (MIC) between 4 and 8) (VISA) or High Level Resistance to Vancomycin (MIC greater than or equal to 16) (VRSA) (Reportable by telephone or facsimile, within 24 hours)
- 690.670 Streptococcal Infections, Group A, Invasive Disease (Including Streptococcal Toxic Shock Syndrome and Necrotizing fasciitis) (Reportable by telephone or facsimile, within 24 hours)
- 690.675 Streptococcal Infections, Group B, Invasive Disease, of the Newborn (birth to 3 months) (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.678 Streptococcus pneumoniae, Invasive Disease in Children Less than 5 Years (Including Antibiotic Susceptibility Test Results) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.680 Syphilis (Repealed)
- 690.690 Tetanus (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.695 Toxic Shock Syndrome due to Staphylococcus aureus Infection (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.698 Tickborne Disease (Includes Babesiosis, Ehrlichiosis, Anaplasmosis, Lyme Disease and Spotted Fever Rickettsiosis) (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.700 Trachoma (Repealed)
- 690.710 Trichinosis (Trichinellosis) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.720 Tuberculosis (Repealed)
- 690.725 Tularemia (Reportable by telephone as soon as possible, within 24 hours, unless

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

- suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours)
- 690.730 Typhoid Fever (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.740 Typhus (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.745 Vibriosis (Other than Toxigenic Vibrio cholera O1 or O139) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.750 Pertussis (Whooping Cough) (Reportable by telephone as soon as possible, within 24 hours)
- 690.752 Yersiniosis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.800 Any Suspected Bioterrorist Threat or Event (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)

## SUBPART E: DEFINITIONS

- Section  
690.900 Definition of Terms (Renumbered)

## SUBPART F: GENERAL PROCEDURES

- Section  
690.1000 General Procedures for the Control of Communicable Diseases (Renumbered)  
690.1010 Incorporated and Referenced Materials (Renumbered)

## SUBPART G: SEXUALLY TRANSMITTED DISEASES

- Section  
690.1100 The Control of Sexually Transmitted Diseases (Repealed)

SUBPART H: PROCEDURES FOR WHEN DEATH OCCURS FROM  
COMMUNICABLE DISEASES

- Section  
690.1200 Death of a Person Who Had a Known or Suspected Communicable Disease  
690.1210 Funerals (Repealed)

## SUBPART I: ISOLATION, QUARANTINE, AND CLOSURE

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

## Section

690.1300	General Purpose
690.1305	Department of Public Health Authority
690.1310	Local Health Authority
690.1315	Responsibilities and Duties of the Certified Local Health Department
690.1320	Responsibilities and Duties of Health Care Providers
690.1325	Conditions and Principles for Isolation and Quarantine
690.1330	Order and Procedure for Isolation, Quarantine and Closure
690.1335	Isolation or Quarantine Premises
690.1340	Enforcement
690.1345	Relief from Isolation, Quarantine, or Closure
690.1350	Consolidation
690.1355	Access to Medical or Health Information
690.1360	Right to Counsel
690.1365	Service of Isolation, Quarantine, or Closure Order
690.1370	Documentation
690.1375	Voluntary Isolation, Quarantine, or Closure
690.1380	Physical Examination, Testing and Collection of Laboratory Specimens
690.1385	Vaccinations, Medications, or Other Treatments
690.1390	Observation and Monitoring
690.1400	Transportation of Persons Subject to Public Health or Court Order
690.1405	Information Sharing
690.1410	Amendment and Termination of Orders
690.1415	Penalties

## SUBPART J: REGISTRIES

## Section

690.1500	Extensively Drug-Resistant Organism Registry
690.1510	Entities Required to Submit Information
690.1520	Information Required to be Reported
690.1530	Methods of Reporting XDRO Registry Information
690.1540	Availability of Information

690.EXHIBIT A Typhoid Fever Agreement (Repealed)

AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENT

SOURCE: Amended July 1, 1977; emergency amendment at 3 Ill. Reg. 14, p. 7, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 131, effective December 7, 1979; emergency amendment at 4 Ill. Reg. 21, p. 97, effective May 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 38, p. 183, effective September 9, 1980; amended at 7 Ill. Reg. 16183, effective November 23, 1983; codified at 8 Ill. Reg. 14273; amended at 8 Ill. Reg. 24135, effective November 29, 1984; emergency amendment at 9 Ill. Reg. 6331, effective April 18, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9124, effective June 3, 1985; amended at 9 Ill. Reg. 11643, effective July 19, 1985; amended at 10 Ill. Reg. 10730, effective June 3, 1986; amended at 11 Ill. Reg. 7677, effective July 1, 1987; amended at 12 Ill. Reg. 10045, effective May 27, 1988; amended at 15 Ill. Reg. 11679, effective August 15, 1991; amended at 18 Ill. Reg. 10158, effective July 15, 1994; amended at 23 Ill. Reg. 10849, effective August 20, 1999; amended at 25 Ill. Reg. 3937, effective April 1, 2001; amended at 26 Ill. Reg. 10701, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 592, effective January 2, 2003, for a maximum of 150 days; emergency expired May 31, 2003; amended at 27 Ill. Reg. 10294, effective June 30, 2003; amended at 30 Ill. Reg. 14565, effective August 23, 2006; amended at 32 Ill. Reg. 3777, effective March 3, 2008; amended at 37 Ill. Reg. 12063, effective July 15, 2013; recodified at 38 Ill. Reg. 5408; amended at 38 Ill. Reg. 5533, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 21954, effective November 5, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART D: DETAILED PROCEDURES FOR THE  
CONTROL OF COMMUNICABLE DISEASES**Section 690.295 Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))**

- a) Control of Case  
Cases shall be evaluated to determine the need for isolation in a health care setting or at the person's residence. The isolation precautions followed shall be based on the most likely pathogen.
- b) Control of Contacts  
Contacts shall be evaluated to determine the need for quarantine.
- c) Persons who identify a single case of a rare or significant infectious disease shall report the case to the local health authority. This may include, but is not limited to, a case of cowpox, [Reye's syndrome](#), glanders, amoebic meningoencephalitis,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

orf, monkeypox, hemorrhagic fever viruses, infection from a laboratory-acquired recombinant organism, or any disease non-indigenous to the United States.

- d) The local health authority shall implement appropriate control measures.
- e) **Laboratory Reporting**  
Laboratories shall report to the local health authority any disease of public health significance that may indicate a public health hazard.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF STATE POLICE

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Non-Court Ordered Juvenile Record Expungement
- 2) Code Citation: 20 Ill. Adm. Code 1206
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1206.10	New Section
1206.20	New Section
1206.30	New Section
1206.40	New Section
- 4) Statutory Authority: Implementing and authorized by Section 5-915 of the Juvenile Court Act [705 ILCS 405/5-915] and authorized by Section 7 of the Criminal Identification Act [20 ILCS 2630/7] and 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this Part is to provide requirements and procedures for non-court ordered expungements of juvenile law enforcement records maintained by the Illinois Department of State Police.
- 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) Do this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed rules. The submissions must be in writing and directed to:

## DEPARTMENT OF STATE POLICE

## NOTICE OF PROPOSED RULES

Ms. Lisa R. Freitag  
Rules Coordinator  
Illinois State Police  
801 South 7th Street, Suite 1000-S  
Springfield IL 62703

217/782-9356

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2015

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

## DEPARTMENT OF STATE POLICE

## NOTICE OF PROPOSED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICE

## PART 1206

## NON-COURT ORDERED JUVENILE RECORD EXPUNGEMENT

## Section

1206.10	Purpose
1206.20	Definitions
1206.30	Procedures for Automatic Juvenile Law Enforcement Record Expungement
1206.40	Procedures for Requests for Juvenile Law Enforcement Record Expungement

**AUTHORITY:** Implementing and authorized by Section 5-915 of the Juvenile Court Act [705 ILCS 405/5-915] and authorized by Section 7 of the Criminal Identification Act [20 ILCS 2630/7] and Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

**SOURCE:** Adopted at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1206.10 Purpose**

The purpose of this Part is to provide requirements and procedures for non-court ordered expungements of juvenile law enforcement records maintained by the Illinois Department of State Police.

**Section 1206.20 Definitions**

"Act" means the Juvenile Court Act of 1987 [705 ILCS 405].

"Automatic Juvenile Expungement" means of the physical destruction of a person's juvenile law enforcement record when the juvenile record meets certain criteria specified in Section 5-915(1.5) of Act without the person having to file a petition to the court or an application to the Department.

"Department" or "DSP" means the Illinois Department of State Police.

"Expunge" means to physically destroy the records and to obliterate the minor's name from any official index or public record, or both.

## DEPARTMENT OF STATE POLICE

## NOTICE OF PROPOSED RULES

"Juvenile Law Enforcement Record" means any records of arrest, station adjustments, fingerprints, probation adjustments, the issuance of a notice to appear, or any other records maintained by the Department relating to a person arrested as a minor.

"Request" means the Request for Expungement of Juvenile Law Enforcement Records established in Section 1206.40.

**Section 1206.30 Procedures for Automatic Juvenile Law Enforcement Record Expungement**

- a) The Department shall identify juvenile law enforcement records within the Department's control that will be automatically expunged if the person and the juvenile law enforcement record meet the requirements set forth in Section 5-915(1.5) of the Act.
- b) The person will not be required to file a petition with the court or to apply to the Department for the eligible juvenile law enforcement records to be automatically expunged.
- c) The Department will automatically expunge the records starting on January 1, 2016 and every July 1 and January 1 thereafter.
- d) The person may utilize the access and review process outlined in 20 Ill. Adm. Code 1210 to verify that the eligible juvenile law enforcement record was expunged.
- e) The Department will not be required to notify, post notice of, or otherwise communicate expungement to a particular person outside of the access and review process.

**Section 1206.40 Procedures for Requests for Juvenile Law Enforcement Record Expungement**

- a) Requests for non-court ordered juvenile criminal history record expungement authorized by Public Act 98-637 shall be made by submitting a completed DSP Request for Expungement of Juvenile Law Enforcement Record form to the Illinois State Police, Bureau of Identification, 260 North Chicago Street, Joliet, Illinois 60432-4075. The request form will be made available on the

## DEPARTMENT OF STATE POLICE

## NOTICE OF PROPOSED RULES

Department's website and must be mailed to the Department for review and processing. If the Department develops a more automated application process, that process shall apply.

- b) The request form must be signed by the person to whom the criminal history record pertains and must be notarized. However, the Department may authorize the use of digital signatures as necessary.
- c) The person may utilize the access and review process outlined in 20 Ill. Adm. Code 1210 to obtain their criminal history record information in order to aid in the completion of the request form.
- d) The person shall make copies of the completed request form and shall provide one copy each to the arresting agency, the prosecutor charged with the prosecution of the minor, and the State's Attorney of the county that prosecuted the minor.
- e) The Department will process the request form and apply the applicable criteria set forth in the Act to determine if the juvenile record is eligible for a non-court ordered expungement. The Department will destroy the identified Department controlled juvenile records that meet the statutory criteria.
- f) The Department must complete the processing of the request form within the same time requirements as a court-ordered juvenile expungement received by the Department under Section 5-622 of the Act.
- g) The Department will notify the person seeking the expungement when the processing is complete and indicate whether the juvenile record was expunged or provide the reason for denial of expungement.

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Number: 250.50      Proposed Action: Amendment
- 4) Statutory Authority: 110 ILCS 70
- 5) A Complete Description of the Subjects and Issues Involved: The primary change to this Section allows an expanded pool of candidates for professional positions, consistent with the current employment and occupational trends associated with certain positions, while still requiring specific residency components to be met upon placement into one of these positions. This proposed rulemaking will allow the universities and agencies under the State Universities Civil Service System to consider applicants outside of the state of Illinois for professional, semi-professional and managerial classifications. This proposed rulemaking will also provide examination accommodation guidelines and a more specific process to close testing for specific classifications when employment registers are sufficient.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed rulemaking within 45 days after the date of publication in the *Illinois Register*:

Mari Martinelli

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

Legal Counsel Manager  
State Universities Civil Service System  
1717 Philo Road, Suite 24  
Urbana IL 61802

217/278-3150, ext. 226  
Email: marim@succs.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - 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: SUCCS did not anticipate this rulemaking.

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

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS  
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEMPART 250  
STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section	
250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

**AUTHORITY:** Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

**SOURCE:** Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg. 1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996;

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 250.50 Examinations**

- a) Kinds of Examinations. Examinations shall be of two kinds: original entry and promotional. Both kinds shall be open and continuous competitive examinations. For the purpose of this Section, an original entry and a promotional examination shall be considered to be one and the same examination.
- b) Eligibility to Compete in Examinations
  - 1) Any citizen or resident of the State of Illinois, who applies for examination in a specific class at a constituent place of employment served by the University System, who is not rejected or disqualified under subsection (c), and who meets the minimum qualifications as prescribed in the class specification, shall be admitted to the examination. For classes requiring valid licenses or certificates, an applicant must show possession of the license or certificate at, or prior to, time of taking the examination. Out-of-state applicants may also be admitted for examination in accordance with conditions outlined in subsection (b)(6).
  - 2) A promotional examination shall be open to a status employee in a place of employment, who is not rejected or disqualified under subsection (c), who meets the minimum qualifications specified in the class specification for a higher class in the appropriate promotional line and who, in addition, is working by virtue of a status appointment, in a position of a lower class in the same promotional line, is on leave of absence from such a position, or is on layoff from such a position.
  - 3) An applicant who fails to meet the minimum qualifications established for the class, but who can offer qualifications that in the opinion of the Executive Director are considered to be compensatory, shall be admitted to the examination for the class. The names of all applicants who pass the examination shall be placed on the appropriate register in order of score.

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

- 4) In the absence of a name of a candidate on any existing register for a class, an applicant who does not possess the minimum qualifications for the class and cannot present compensatory qualifications may be admitted with prior approval of the Executive Director to the examination for the class for the purpose of attempting to fill a specific vacancy. The name of an applicant so admitted, and who passes the examination, shall remain on the register only until the specific vacant position has been filled.
- 5) In accordance with the Americans With Disability Act (ADA), any applicant with a recognized disability may receive an accommodation for any examination maintained by the University System. These accommodations are to be administered in coordination with requirements contained in the ADA, the State Universities Civil Service Act [110 ILCS 70] and this Part, and other applicable policies at each employment location.~~An applicant with a physical handicap who fails a section or sections of an original entry examination because of circumstances directly related to the handicap, who is subsequently employed in the absence of a register, may, after six months of satisfactory service, upon recommendation of an employer and written approval of the Executive Director, be declared exempt from qualifying on the failed section or sections of the examination, in which case he/she shall become a status employee in the position in which he/she has been employed or in another position in the same class.~~
- 6) For classes within the professional, semi-professional, or managerial occupational areas requiring highly technical or professional qualifications for which a broader recruitment base is typically applied, out-of-state residents may be admitted to the examination and equally considered~~there is an inadequate supply of qualified applicants who are citizens of, or residents in, the State of Illinois, out-of-state residents may be admitted to the examination. In these instances, when~~When the Illinois citizenship or residency requirement is waived, out-of state candidates must establish Illinois residency within 90 calendar days after any employment offer or final appointment~~in-state candidates shall be listed on the register ahead of out-of state candidates.~~
- 7) Any applicant may rewrite an examination for a class three times within any twelve month period, with at least one month time lapse between every rewrite. The candidate's place on the register for the class shall be

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

determined by the highest score achieved on any examination for the class.

- A) ~~For the purpose of this Section, an original entry and a promotional examination shall be considered to be one and the same examination.~~
- B) ~~The limitations of this Section do not apply to an applicant who fails the typewriting and transcribing sections of an examination.~~
- c) Rejection or Disqualification of Applicants. The employer may reject any applicant; or, after examination, the Executive Director may refuse to certify any candidate who, in addition to requirements specified in Section 36f of the State Universities Civil Service Act [110 ILCS 70/36f] and subsection (b), fails to pass a physical examination given to determine his/her physical qualifications for employment, ~~abuses~~uses intoxicating ~~substances~~beverages to excess, uses ~~illegal drugs or~~ narcotics, has been dismissed from either private or public service for a cause detrimental to his/her employment by an employer under the University System, has maintained an unsatisfactory employment record, has practiced deception or fraud in his/her application, examination, or material pertaining to these, or has committed an offense that in the judgment of the Executive Director disqualifies him/her for employment.
- d) Character of Examinations
- 1) Examinations shall consist of one or more of the following: written test; performance test; oral test; physical test; aptitude test; practical test; other appropriate tests; a rating of experience and training.
  - 2) All examination content shall be provided by the staff of the University System.
  - 3) All examination supplies and materials and all examinations are the property of the University System.
  - 4) An original entry or promotional examination may be revised, with the approval of the Executive Director, without affecting existing original entry or promotional registers for the class, providing the revision does not change the character or weighting of sections of the examination.

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

- 5) Upon approval of the Executive Director, the ~~The~~ character or weighting of sections of an original entry or promotional examination may be changed, provided with the approval of the Executive Director, providing ~~that~~ there is sufficient evidence that the current examination for the class is not a satisfactory examining instrument; and providing, further, that the ~~character or weighting of the~~ current examination has been in use for a period of at least one year. At least 30 calendar; ~~and providing, further,~~ that 45 days advance notice of the change shall be given to all appropriate employers who shall then communicate the notice in writing to each candidate ~~then~~ on an original entry or promotional register by score and shall further communicate the notice in writing to any applicant who applies for an original entry or promotional examination during the 3045- day notice period. During the 3045-day notice period, qualified applicants and (including candidates whose names are already on the register by score), at their request, will be scheduled for the examination upon his/her request. At the end of the 3045-day period, the previous original entry register or promotional register ~~registers~~ of candidates by score will be voided, and a new original entry register or promotional register ~~registers~~ by score shall be established on the basis of the new examination.
- e) Administration of Examinations-
- 1) As approved by the Executive Director, examinations shall be scheduled and administered by the employer. The examinations shall be conducted on an open and continuous basis. Upon request by the employer and approval by the Executive Director, ~~except for~~ examinations to original entry registers at each place of employment may be closed up to six calendar months when, ~~as requested by the employer and approved by the Executive Director,~~ that have a sufficient number of candidates on the register has been established and ~~that preclude~~ further recruitment and testing is not required for a period of time.
- 2) In making the ~~a~~ determination to close ~~reopen (or close)~~ an original entry examination, the Executive Director will consider requests by the employer ~~or other individuals~~ based on the number of positions in the class, projected new positions, and annual turnover rate. ~~Also, for examinations that have been closed for six months or more, the Executive Director will review the need for continuing the approval of a closed examination.~~ The employer shall be responsible for the security of all

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

examination materials in the employer's custody and access to any electronic examination process, as provided supplied to the employer by the University System ~~so long as they are in the employer's custody.~~

- f) Rating of Examinations
- 1) The Executive Director and the staff of the University System shall use appropriate scientific techniques and procedures in rating tests and in determining resulting rank to the end that all competitors receive uniform and fair treatment.
  - 2) Failure in any portion of a total examination, the passing of which is deemed necessary to qualify for eligibility in the class for which the applicant is being examined, shall eliminate the applicant from passage of the complete examination, regardless of his/her score in other portions of the examination. For each eliminating test and the final average in an examination, the Executive Director shall announce the minimum acceptable rating.
  - 3) The passing score for eligibility for certification shall be determined by the Executive Director. This score shall be the same for all examinations given for a class, but it may be changed if, in the judgment of the Executive Director, the change is for the best interest of the University System, and the change shall be applicable uniformly to all examinations for the class. The passing score shall be made known to all those taking the examination.
  - 4) An applicant who fails to gain eligibility for employment in a higher class may, at the discretion of the Executive Director, elect to accept eligibility for a lower appropriate class, if his/her scores on all appropriate parts of the examination are sufficient to qualify him/her for the lower class.
  - 5) All examination scores shall be on a scale of 1 to 100, with decimal points in examination scores being rounded off to the nearest whole number, i.e., with below .5 having the decimal points dropped and with .5 or above being rounded to the next whole number.
- g) Notification and Review of Scores

## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

## NOTICE OF PROPOSED AMENDMENT

- 1) An applicant shall be sent a written notice of the date and results of his/her examination. The notice must indicate whether the score achieved is passing or failing and if it includes credit for Veterans Preference.
  - 2) All requests ~~by~~ applicants for formal review of examination scores shall be submitted~~made~~ to the Executive Director.
- h) Filing of Examination Records. All examinations, and all examination components, administered by the employer shall be retained by the employer, in accordance with the employer's record retention policy, or in accordance with the University System's record retention policy.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Adopted 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	
101.Illustration A	Amendment
101.Illustration B	Amendment
101.Appendix H	
101.Illustration A	New Section
101.Illustration B	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) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rule is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12685
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

In Section 101.302, Filing of Documents, the Board amended subsection (h)(4) to reduce the number of originals of a copyright-protected document proposed for incorporation by reference in a rulemaking that must be filed, to allow limited substitution of paper copies for required originals with the copyright owner's written permission.

In Section 101.1060, E-Mail Service, the Board extended the time specified in subsection (d) by which a document may be served by e-mail (where permitted) and be deemed served on the date of the e-mail transmission (rather than the next business day). The Board also amended Illustrations A and B of Appendix H to Part 101 to reflect that the documentation of e-mail service must only state that the e-mail was transmitted before a certain time on the date the e-mail was sent.

The Board also adopted other changes of a non-substantive nature, e.g., punctuation and organization.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this procedural rulemaking for two primary purposes. First, to 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, to

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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 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 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 rules on electronic filing and service by e-mail is new Subpart J (Sections 101.1000 through 101.1070). The amended rules also make 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.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARDPART 101  
GENERAL RULES

## SUBPART A: GENERAL PROVISIONS

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
<a href="#">101.111</a>	<a href="#">Informal Recordings of Board Meetings</a>
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 <a href="#">from Another Proceeding by Reference</a>
101.308	Statutory Decision Deadlines and Waiver of Deadlines

## SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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 <del>and Review of</del> Final Opinions and Orders
101.906	Judicial Review of Board Orders
101.908	Interlocutory Appeal

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

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

101.APPENDIX A	Captions
----------------	----------

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

101.ILLUSTRATION A	Enforcement Case
101.ILLUSTRATION B	Citizen'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	<a href="#">Affidavit or Certificate of Service</a>
101.ILLUSTRATION A	Service by Non-Attorney
101.ILLUSTRATION B	Service by Attorney
101.APPENDIX F	Notice of Withdrawal (Repealed)
101.APPENDIX G	Comparison of Former and Current Rules (Repealed)
<u>101.APPENDIX H</u>	<u><a href="#">Affidavit or Certificate of E-Mail Service</a></u>
<u>101.ILLUSTRATION A</u>	<u><a href="#">E-Mail Service by Non-Attorney</a></u>
<u>101.ILLUSTRATION B</u>	<u><a href="#">E-Mail Service by Attorney</a></u>
<u>101.APPENDIX I</u>	<u><a href="#">Consent to Receipt of E-Mail Service</a></u>

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 R10-22 at 34 Ill. Reg. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015.

## 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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) Full name;
- B) Any person he or she is representing; and
- C) The docket number of the proceeding on which 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 39 Ill. Reg. 2276, effective January 27, 2015)

**Section 101.111 Informal Recordings of Board Meetings**

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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 39 Ill. Reg. 2276, effective January 27, 2015)

## 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 5/4].

"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.)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

documents in the records of the Board's adjudicatory and regulatory proceedings.  
COOL is located on the Board's website at <http://www.ipcb.state.il.us/COOL/external/>.

"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,*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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.)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

[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 [an 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.*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

22.38 of ~~the~~<sup>the</sup> 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;*

*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*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

specification approved by the Agency:

*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:*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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:*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*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 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

"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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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 39 Ill. Reg. 2276, effective January 27, 2015)

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 (see 35 Ill. Adm. Code 101 through 130)~~. 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 date, provided all filing requirements ~~are met as~~ set forth in Section 101.302 of this Subpart ~~are met~~~~Part~~.
  - 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) For purposes of Board decision deadlines, the decision 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)~~ filings are only allowed in accordance with Section 101.302(d) of this Subpart~~Part~~. 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~~or 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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 the Board's procedural~~these~~ rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 contain the relevant proceeding caption and docket number. ~~All documents and~~ must be submitted on or formatted to print on 8½ 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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, 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 three 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; provided, however:
- A) One or two paper copies may be substituted for the corresponding number of required paper originals if the rulemaking proposal includes the copyright owner's written authorization for the rulemaking proponent to create the paper copy or copies.
  - B) The proponent may file no more than two authorized copies in lieu of the corresponding number of required originals.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- C) Any copyrighted document that is proposed for incorporation by reference 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 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 39 Ill. Reg. 2276, effective January 27, 2015)

**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 [personsparties](#) 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 [personparty](#) 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 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**Section 101.306 Incorporation of Documents [from Another 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 39 Ill. Reg. 2276, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## 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~~](#) 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~~](#) of service and notice of filing on all parties or their representatives.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

## 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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 39 Ill. Reg. 2276, effective January 27, 2015)

**Section 101.906 Judicial Review of Board Orders**

- a) Pursuant to Sections 29 and 41 of the Act ~~[415 ILCS 5/29 and 41] 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 39 Ill. Reg. 2276, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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). 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 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.
- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 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:

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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) 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 39 Ill. Reg. 2276, effective January 27, 2015)

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

- 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 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 39 Ill. Reg. 2276, effective January 27, 2015)

**Section 101.1040 Filing Fees**

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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, 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.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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 5:00 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;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 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 39 Ill. Reg. 2276, effective January 27, 2015)

**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.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 39 Ill. Reg. 2276, effective January 27, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX E Affidavit or Certificate of Service**

**Section 101.ILLUSTRATION A Service by Non-Attorney**

AFFIDAVIT~~PROOF~~ 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 at which they were served]}

[signature]

Notary Seal

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

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

(Source: Amended at 39 Ill. Reg. 2276, effective January 27, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX E Affidavit or Certificate of Service**

**Section 101.ILLUSTRATION B Service 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]

(Source: Amended at 39 Ill. Reg. 2276, effective January 27, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

AFFIDAVIT OF E-MAIL SERVICE

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

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

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

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

That the e-mail transmission took place before 5:00 p.m. on the date of \_\_\_\_\_

[signature]

Notary Seal

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

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

(Source: Added at 39 Ill. Reg. 2276, effective January 27, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

Section 101.ILLUSTRATION B E-Mail Service by Attorney

CERTIFICATE OF E-MAIL SERVICE

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

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

That my e-mail address is \_\_\_\_\_.

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

That the e-mail transmission took place before 5:00 p.m. on the date of \_\_\_\_\_.

[signature]

[date]

(Source: Added at 39 Ill. Reg. 2276, effective January 27, 2015)



## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Regulatory and Informational Hearings and Proceedings
- 2) Code Citation: 35 Ill. Adm. Code 102
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
102.200	Amendment
102.202	Amendment
102.206	Amendment
102.208	Amendment
102.210	Amendment
102.302	Amendment
102.416	Amendment
102.424	Amendment
102.810	Amendment
102.820	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rule is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12740
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this procedural rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to 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 service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 102 relate to electronic filing and service by e-mail of rulemaking proposals and other documents filed with the Board in rulemaking proceedings. The rules also require the Illinois Environmental Protection Agency to provide an electronic version of its proposed rule language in various types of rulemakings, e.g., Clean Air Act fast-track rulemakings (Section 102.302).

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARDPART 102  
REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

## SUBPART A: GENERAL PROVISIONS

Section	
102.100	Applicability
102.102	Severability
102.104	Definitions
102.106	Types of Regulatory Proposals
102.108	Public Comments
102.110	Waiver of Requirements
102.112	Other Proceedings

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY,  
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)  
AMENDMENTS, AND SITE-SPECIFIC REGULATIONS

Section	
102.200	Proposal for Regulations of General Applicability
102.202	Proposal Contents for Regulations of General Applicability
102.204	Proposal of RCRA Amendments
102.206	Notice of Site-Specific RCRA Proposals
102.208	Proposal for Site-Specific Regulations
102.210	Proposal Contents for Site-Specific Regulations
102.211	Proposal to Update Incorporations by Reference
102.212	Dismissal

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA)  
FAST TRACK RULEMAKING

Section	
102.300	Applicability
102.302	Agency Proposal
102.304	Hearings

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

102.306 Prefiled Testimony

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,  
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING  
CONFERENCES, AND HEARINGS

## Section

102.400 Service and Filing of Documents  
102.402 Motions, Production of Information, and Subpoenas  
102.404 Initiation and Scheduling of Prehearing Conferences  
102.406 Purpose of Prehearing Conference  
102.408 Prehearing Order  
102.410 Authorization of Hearing  
102.412 Scheduling of Hearings  
102.414 Hearings on the Economic Impact of New Proposals  
102.416 Notice of Hearing  
102.418 Record  
102.420 Authority of the Hearing Officer  
102.422 Notice and Service Lists  
102.424 Prehearing Submission of Testimony and Exhibits  
102.426 Admissible Information  
102.428 Presentation of Testimony and Order of Hearing  
102.430 Questioning of Witnesses

## SUBPART E: CERTIFICATION OF REQUIRED RULES

## Section

102.500 Agency Certification  
102.502 Challenge to Agency Certification  
102.504 Board Determination

## SUBPART F: BOARD ACTION

## Section

102.600 Revision of Proposed Regulations  
102.602 Adoption of Regulations  
102.604 First Notice of Proposed Regulations  
102.606 Second Notice of Proposed Regulations  
102.608 Notice of Board Final Action

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 102.610 Adoption of Identical-in-Substance Regulation
- 102.612 Adoption of Emergency Regulations
- 102.614 Adoption of Peremptory Regulations

## SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

- Section
- 102.700 Filing of Motions for Reconsideration
  - 102.702 Disposition of Motions for Reconsideration
  - 102.704 Correction of Publication Errors
  - 102.706 Appeal

## SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

- Section
- 102.800 Applicability
  - 102.810 Petition
  - 102.820 Petition Contents
  - 102.830 Board Action

## 102.APPENDIX A Comparison of Former and Current Rules (Repealed)

**AUTHORITY:** Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 27, 28, 28.2, 28.6, 29, and 41 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 27, 28, 28.2, 28.6, 29, and 41] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

**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; Part repealed, new Part adopted in R88-5(B) at 14 Ill. Reg. 9210, effective May 24, 1990; amended in R90-16 at 14 Ill. Reg. 20472, effective December 11, 1990; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 587, effective January 1, 2001; amended in R01-13 at 26 Ill. Reg. 3498, effective February 22, 2002; amended in R04-24 at 29 Ill. Reg. 8776, effective June 8, 2005; amended in R10-18 at 34 Ill. Reg. 12193, effective August 9, 2010; amended in R14-21 at 39 Ill. Reg. 2333, effective January 27, 2015.

## SUBPART B: REGULATIONS OF GENERAL APPLICABILITY, RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AMENDMENTS,

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## AND SITE-SPECIFIC REGULATIONS

**Section 102.200 Proposal for Regulations of General Applicability**

Any person may submit a regulatory proposal for the adoption, amendment, or repeal of a regulation. The ~~original and 9 copies of each~~ proposal must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and ~~served upon one copy each with~~ the Attorney General, the Agency, and DNR in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.202 Proposal Contents for Regulations of General Applicability**

Each proponent must set forth the following in its proposal:

- a) The language of the proposed rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
- b) A statement of the reasons supporting the proposal, including a statement of the facts that support the proposal, and a statement of the purpose and effect of the proposal, including environmental, technical, and economic justification. The statement must discuss the applicable factors listed in Section 27(a) of the Act. The statement must include, to the extent reasonably practicable, all affected sources and facilities and the economic impact of the proposed rule;
- c) A synopsis of all testimony to be presented by the proponent at hearing;
- d) ~~Any Copies of any~~ material to be incorporated by reference within the proposed rule pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75];
- e) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];*

- f) Documentation~~Proof~~ of service upon all persons required to be served pursuant to Section 102.422 of this Part;
- g) Unless the proponent is the Agency or DNR, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.410(b) of this Part;
- h) When the Agency proposes a rule it believes is federally required, a certification in accordance with Section 102.500 of this Part;
- i) For a proposed rule that amends an existing Board rule, a written statement or certification that the proposal amends the most recent version of the rule as published on the Board's Web site or as obtained from the Clerk;
- j) When the proponent is a State agency, an electronic version of the information required under subsection (a) of this Section in Microsoft Word for Windows, version 6.0 or greater; and
- k) When any information required under this Section is inapplicable or unavailable, a complete justification for the inapplicability or unavailability.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.206 Notice of Site-Specific RCRA Proposals**

- a) Public notice of hearings on site-specific RCRA proposals will be given at least 30 days before the date of the hearing.
- b) In addition to the requirements of Section 28 of the Act, 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 USEPA;
  - 2) Illinois Department of Transportation;
  - 3) Illinois Department of Natural Resources;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) Illinois Department of Public Health;
  - 5) The Governor of any other state adjacent to the county in which the facility is located; and
  - 6) 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 102.416 of this Part, the Board will give notice by broadcast over at least one radio station in the area of the facility containing the information required by subsections (d)(2) and (d)(4) through (d)(8) of this Section.
- 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 proposal;
  - 4) A description of the relief requested in the proposal;
  - 5) Name, address, [e-mail address](#), and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the proposal;
  - 6) The name, address, [e-mail 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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

office for inspection, except those portions that are claimed or determined to be trade secrets, and that procedures are available whereby disclosure may be sought by the public. Any such claim must be made in accordance with 35 Ill. Adm. Code 130;

- 9) A statement that site-specific rules may be adopted pursuant to 415 ILCS 5/27 and Section 102.202 of this Part, and a citation to the Board regulations sought to be modified; and
- 10) Any additional information considered necessary or proper.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.208 Proposal for Site-Specific Regulations**

Any person may submit a written proposal for the adoption, amendment or repeal of a substantive site-specific regulation. The ~~original and 9 copies of each~~ proposal must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and of the Board and one copy each served upon the Agency, DNR, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.210 Proposal Contents for Site-Specific Regulations**

Proponents of site-specific regulations other than those relating to RCRA must comply with the requirements of Section 102.202 of this Part in addition to the following requirements:

- a) The proposal must set forth the language of the proposed site-specific rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring and language being deleted must be indicated by strike-outs. If the proposed site-specific rule seeks an exemption from or modification of a rule of general applicability, the proposed site-specific rule may not be proposed as an amendment to the general rule. Instead, the site-specific rule must be proposed as its own Section;
- b) In the event that the proposed rule would replace the applicability of a general rule to the pollution source, the proposal must specify, with supporting documentation, the reasons why the general rule is not technically feasible or

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

economically reasonable for the person or site. The documentation must include relevant information on other similar persons' or sites' ability to comply with the general rule. Where relevant to the Board's consideration, the proposal must also include information pertaining to *existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications, and the nature of the existing air quality or receiving body of water* [415 ILCS 5/27(a)];

- c) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act* [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];
- d) The proposal must describe the person or site for which regulatory change is sought and the area affected by the proposed change. The proposal must also include a detailed assessment of the environmental impact of the proposed change, and include a description of available treatment or control options;
- e) The proposal must demonstrate that the Board may grant the requested relief consistent with federal law governing the subject of the proposal (e.g., Underground Injection Control program, Resource Conservation and Recovery Act, etc.);
- f) When the proponent is a State agency, the proponent also must provide an electronic version of the information required under subsection (a) of this Section [in Microsoft Word for Windows, version 6.0 or greater](#); and
- g) When any information required under this Section is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA)  
FAST TRACK RULEMAKING

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 102.302 Agency Proposal**

- a) When proposing a regulation required by the CAAA, the Agency must meet the following requirements:
- 1) The proposal must set forth the proposed rule, which must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
  - 2) The proposal must have a cover sheet that prominently states that the Agency proposes the rule under Section 28.5 of the Act, *unless another provision of the Act specifies the method for adopting a specific rule* [415 ILCS 5/28.5(c)];
  - 3) The proposal must *clearly identify the provisions and portions of the federal statute, regulations, guidance, policy statement, or other documents upon which the rule is based* [415 ILCS 5/28.5(e)(3)];
  - 4) The proposal must include *supporting documentation for the rule that summarizes the basis of the rule* [415 ILCS 5/28.5(e)(4)];
  - 5) The proposal must *describe in general the alternative selected and the basis for the alternative* [415 ILCS 5/28.5(e)(5)];
  - 6) The proposal must summarize the economic and technical data that the Agency relied upon in drafting the proposed rule;
  - 7) The proposal must include a list of any documents that the Agency directly relied upon in drafting the proposed rule or that the Agency intends to rely upon at hearing, and copies of the documents;
  - 8) The proposal must set forth *a description of the geographical area to which the rule is intended to apply, a description of the process or processes affected, and identification by classes of the entities expected to be affected, and a list of sources expected to be affected by the rule to the extent known to the Agency* [415 ILCS 5/28.5(e)(8)];
  - 9) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

*performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)]; and*

- 10) The proposal must include an electronic version of a diskette containing the information required under subsection (a)(1) of this Section in Microsoft Word for Windows, version 6.0 or greater.
- b) If the proposal fails to meet any of the requirements of subsection (a) of this Section, the Board may decide not to accept the proposal for filing.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,  
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING  
CONFERENCES, AND HEARINGS

**Section 102.416 Notice of Hearing**

- a) The hearing officer will set a time and place for hearing. The Clerk will give notice of the date of the hearing as follows or as otherwise required by applicable law:
  - 1) By notice in the Board's Environmental Register and on the Board's website~~Web site~~;
  - 2) *At least 20 days prior to the scheduled date of the hearing the Board shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the State concerned. The notice will include, the date, time, place and purpose of such hearing [415 ILCS 5/28(a)]; and*
  - 3) Where required by federal law, including air pollution and RCRA proposals, newspaper notice will be published at least 30 days prior to the hearing date.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) In accordance with Section 28(a) of the Act or as otherwise required by applicable law, the Clerk will give notice ~~by mail~~ to the proponent and to all persons who are on the notice list in accordance with Section 102.422 of this Part.
- c) Hearings that are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsections (a) and (b) of this Section.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.424 Prehearing Submission of Testimony and Exhibits**

- a) The proponent must submit all written testimony and any related exhibits 21 days prior to the hearing at which the witness testifies, unless the hearing officer directs otherwise to prevent material prejudice or undue delay.
- b) The hearing officer may require the prehearing submission of testimony, questions, responses, answers, and any related exhibits by the proponent or participants other than the proponent if the hearing officer determines that such a procedure will provide for a more efficient hearing.
- c) ~~All~~The original and 9 copies of any prehearing testimony, questions, answers, responses, ~~and~~or exhibits must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h). The hearing officer, the Agency, and, if a participant, the Attorney General and DNR must each be served with ~~all one copy of any~~ prehearing testimony, questions, answers, responses, ~~and~~or exhibits in accordance with 35 Ill. Adm. Code 101.304(c). ~~All~~One copy of any prehearing testimony, questions, answers, responses, ~~and~~or exhibits must also be served in accordance with 35 Ill. Adm. Code 101.304(c) upon the proponent and each participant on any service list, unless otherwise specified ~~or limited~~ by the hearing officer. The service must be initiated on or before the date that the prehearing documents~~copies~~ are filed with the Clerk.
- d) All prehearing testimony, questions, answers, responses, and exhibits must be served and submitted in the form required by 35 Ill. Adm. Code 101.Subpart C and labeled with the docket number of the proceeding, the name of the witness submitting the material or exhibit, and the title of the material or exhibit.
- e) The proponent and each participant who has filed testimony, questions, answers,

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

responses, or exhibits before hearing must bring the number of copies designated by the hearing officer of that material and exhibits to the hearing.

- f) Testimony, questions, answers, responses, and exhibits submitted prior to hearing will be entered into the record as if read, unless the hearing officer determines that it will aid public understanding to have the material or exhibit read. All persons testifying will be sworn and will be subject to examination. Modifications to previously submitted material and exhibits may be allowed by the hearing officer at hearing provided that the modifications are either non-substantive in nature or would not materially prejudice another person's participation at hearing. Objections to the modifications are waived unless raised at hearing.
- g) ~~When~~~~Where~~ prehearing submission of testimony, questions, answers, responses, or exhibits, is required pursuant to subsection (a) or (b) of this Section, any material or exhibit that is not filed in a timely manner will be allowed only as time permits, and only ~~when~~~~where~~ its submission will not materially prejudice the proponent or any other participant.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

## SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

**Section 102.810 Petition**

Any person may submit a petition for the adoption, amendment or repeal of an ORW designation. The ~~original and nine copies of each~~ petition must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and ~~one copy each~~ served upon the Agency, ~~DNR Illinois Department of Natural Resources~~, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

**Section 102.820 Petition Contents**

Each proponent must set forth the following information in its proposal:

- a) The language of the proposed rule, amendment, or repealer identifying the surface water body or water body segment being proposed for designation, amendment, or repeal as an ORW. Language being added must be indicated by underscoring,

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;

- b) A statement describing the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested and the present designation of the surface water body or water body segment;
- c) A statement describing the area in which the specific surface water body or water body segment exists, including:
  - 1) The existence of wetlands or natural areas;
  - 2) The living organisms in that area, including endangered or threatened species of plants, aquatic life or wildlife listed pursuant to the Endangered Species Act (16 USC 1531 et seq.) or the Illinois Endangered Species Protection Act [41 ILCS 10];
- d) A statement supporting the designation, the amendment, or the repeal, including the health, environmental, recreational, aesthetic or economic benefits of the designation, the amendment, or the repeal thereof;
- e) A statement identifying the anticipated impact on economic and social development of the ORW designation, amendment, or repeal. This statement should include:
  - 1) Impacts on the regional economy;
  - 2) Impacts on regional employment;
  - 3) Impacts on the community;
  - 4) A comparison of the health and environmental impacts to the economic impact of an ORW designation;
- f) A statement describing the existing and anticipated uses of the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested;
- g) A statement describing the existing water quality of the specific surface water

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

body or water body segment warranting the ORW designation, amendment, or repeal;

- h) A synopsis of all testimony to be presented by the proponent at hearing;
- i) ~~Any Copies of any~~ material to be incorporated by reference within the proposed designation pursuant to Section 5-75 of the Administrative Procedure Act [5 ILCS 100/5-75];
- j) *A descriptive title or other description of any published study or research report used in developing the rule, the ~~identity~~identify of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];*
- k) ~~Documentation~~Proof of service upon all persons required to be served pursuant to Section 102.810 of this Part;
- l) Unless the proponent is the Agency or Illinois Department of Natural Resources or receives a waiver by the Board, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.160(a); and
- m) Where any information required by this Section is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

(Source: Amended at 39 Ill. Reg. 2333, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Enforcement
- 2) Code Citation: 35 Ill. Adm. Code 103
- 3) 

<u>Section Number:</u>	<u>Adopted Action:</u>
103.204	Amendment
103.206	Amendment
103.410	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rule is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12757
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21. The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to permit, with certain limited

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

exceptions, electronic filing in all Board proceedings through the Board's Clerk's Office On-Line or "COOL", as well as service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 103 relate to electronic filing and service by e-mail of filings in enforcement proceedings before the Board. Section 103.206, as amended, also requires that service of counter-complaints, cross-complaints, and third-party complaints conform to the rules for serving initial pleadings in enforcement cases.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARDPART 103  
ENFORCEMENT

## SUBPART A: GENERAL PROVISIONS

Section	
103.100	Applicability
103.102	Severability
103.104	Definitions
103.106	General

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY  
INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section	
103.200	Who May File
103.202	Parties
103.204	Notice, Complaint, and Answer
103.206	Adding Parties; <a href="#">Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims</a>
103.208	Request for Informal Agency Investigation
103.210	Notice of Complaint
103.212	Hearing on Complaint

## SUBPART C: SETTLEMENT PROCEDURE

Section	
103.300	Request for Relief from Hearing Requirement in State Enforcement Proceeding
103.301	Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding
103.302	Contents of Proposed Stipulation and Settlement Agreement
103.304	Hearing on Proposed Stipulation and Settlement Agreement
103.306	Board Order on Proposed Stipulation and Settlement Agreement

## SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

Section	
103.400	Purpose, Scope, and Applicability
103.402	Interim Order
103.404	Joinder of the Agency
103.406	Draft Permit or Statement
103.408	Stipulated Draft Remedy
103.410	Contents of Public Notice
103.412	Public Comment
103.414	Hearing
103.416	Contents of Board Order

## SUBPART E: IMPOSITION OF PENALTIES

Section	
103.500	Default
103.502	Civil Penalties
103.504	Civil Penalties Method of Payment

## SUBPART F: ENFORCING BOARD ORDERS

Section	
103.600	Civil Action

## 103.APPENDIX A Comparison of Former and Current Rules (Repealed)

**AUTHORITY:** Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

**SOURCE:** Originally adopted as Chapter 1: Procedural Rules, Part III, Enforcement Proceedings, in R70-4, at 1 PCB 43, October 8, 1970; amended in R80-2, at 39 PCB 456, at 4 Ill. Reg. 39, p. 285, effective September 12, 1980; amended in R80-18, at 44 PCB 125, at 5 Ill. Reg. 14146, effective December 3, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1383, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 425, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8793, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2349, effective January 27, 2015.

## SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

**Section 103.204 Notice, Complaint, and Answer**

- a) An enforcement proceeding will be commenced by the service of a notice and complaint by registered or certified mail, messenger service, or personal service upon all respondents and the filing of ~~1 original and 9 copies of~~ the notice and complaint with the Clerk. (See 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h) and 101.304(c).)
- b) The notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board.
- c) The complaint must be captioned in accordance with 35 Ill. Adm. Code 101.Appendix A, Illustration A and contain:
  - 1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;
  - 2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense; and
  - 3) A concise statement of the relief that the complainant seeks.
- d) Except as provided in subsection (e) of this Section, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.
- e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) of

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

this Section will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

- f) Any party serving a complaint upon another party must include the following language in the notice: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

(Source: Amended at 39 Ill. Reg. 2349, effective January 27, 2015)

**Section 103.206 Adding Parties; Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims**

- a) The Board, on its own motion or the motion of a respondent, may order a person to be added as a respondent if a complete determination of a controversy cannot be had without the presence of the person who is not already a party to the proceeding.
- b) If the Board orders a person to be added as a respondent pursuant to subsection (a) of this Section, the Board will grant the complainant leave to file an amended complaint that sets forth a claim against the added respondent. The amended complaint must meet the requirements of Section 103.204 of this Subpart.
- c) Misjoinder and nonjoinder of parties with respect to enforcement proceedings are governed by 35 Ill. Adm. Code 101.403(b).
- d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another person, the party who wishes to file the pleading must move the Board for leave to file the pleading.
- e) The pleading sought to be filed pursuant to subsection (d) of this Section must:
- 1) Set forth a claim that arises out of the occurrence or occurrences that are the subject of the proceeding; and

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) Meet the requirements of Section 103.204 of this Subpart, including the requirement to serve the pleading by registered or certified mail, messenger service, or personal service upon the respondent, counter-respondent, cross-respondent, or third-party respondent.

(Source: Amended at 39 Ill. Reg. 2349, effective January 27, 2015)

## SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

**Section 103.410 Contents of Public Notice**

- a) In addition to all parties, the Agency must serve a copy of any partial draft permit on USEPA in accordance with 35 Ill. Adm. Code 101.304(c) at the address listed in 35 Ill. Adm. Code 101. Subpart C.
- b) In addition to the requirements of the Act and Section 103.210 of this Part, the Agency must, at a minimum, give notice of the filing of a partial draft permit to the following persons:
  - 1) Federal agencies as designated by USEPA;
  - 2) Illinois Department of Transportation;
  - 3) Illinois Department of Natural Resources;
  - 4) Illinois Department of Public Health;
  - 5) The Governor of any other state adjacent to the county in which the facility is located; and
  - 6) 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 103.208 of this Part, the Agency must give notice by broadcast over at least one radio station in the area of the facility containing the information required by subsections (d)(2), (d)(4) and (d)(6) through (d)(8).

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) A notice of a partial draft permit must include the following information:
- 1) The ~~addresses~~address of the Board ~~offices and the Board website~~office;
  - 2) Name and address of the respondent and, if different, of the facility subject to the enforcement proceeding;
  - 3) A brief description of the business conducted at the facility and the activity that is the subject of the enforcement proceeding;
  - 4) A statement of the violations the Board has found or has proposed to find;
  - 5) A statement that the Agency has filed a partial draft permit;
  - 6) Name, address, e-mail address, and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the partial draft permit or stipulated remedy;
  - 7) A notice of a hearing, the address of the Board, a statement that a hearing will be held and that the record will remain open for 45 days after the filing of the partial draft or stipulated remedy for written comments;
  - 8) A statement that the record in the proceeding is available to be inspected at the Board office and may also be available through the Clerk's Office On-Line (COOL), located on the Board website for inspection, except those portions of the record that are claimed or determined to be trade secrets or other non-disclosable information, and that procedures are available whereby disclosure may be sought by the public in accordance with 35 Ill. Adm. Code 130;
  - 9) A statement that enforcement proceedings are considered pursuant to 415 ILCS 5/30; and
  - 10) Any additional information considered necessary or proper.

(Source: Amended at 39 Ill. Reg. 2349, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Regulatory Relief Mechanisms
- 2) Code Citation: 35 Ill. Adm. Code 104
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
104.206	Amendment
104.214	Amendment
104.216	Amendment
104.224	Amendment
104.408	Amendment
104.420	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12766
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to 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 service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 104 relate to electronic filing and service by e-mail of filings in proceedings seeking regulatory relief before the Board such as variance proceedings.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARDPART 104  
REGULATORY RELIEF MECHANISMS

## SUBPART A: GENERAL PROVISIONS

Section	
104.100	Applicability
104.102	Severability
104.104	Definitions

## SUBPART B: VARIANCES

Section	
104.200	General
104.202	Filing Requirements
104.204	Petition Content Requirements
104.206	Resource Conservation and Recovery Act (RCRA) Variance Petition Contents
104.208	Consistency with Federal Law
104.210	Petition for Extension of Variance
104.212	Motion for Modification of Internal Variance Compliance Dates
104.214	Agency's Notice of Petition
104.216	Agency Investigation and Recommendation
104.218	Agency Recommendation to RCRA Variance
104.220	Response to Agency Recommendation
104.222	Stipulations
104.224	Objections to Petition, Written Comments and Request for Hearing
104.226	Amended Petition and Amended Recommendation
104.228	Insufficient Petition
104.230	Dismissal of Petition
104.232	Calculation of Decision Deadline
104.234	Hearing
104.236	Hearing Procedures
104.238	Standard of Review
104.240	Certificate of Acceptance
104.242	Term of Variance

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 104.244 Variance Conditions
- 104.246 Performance Bonds
- 104.248 Objection to Conditions

## SUBPART C: PROVISIONAL VARIANCES

- Section
- 104.300 Applicability
- 104.302 Agency Action
- 104.304 Initiating a Request
- 104.306 Filing and Notice
- 104.308 Term
- 104.310 Simultaneous Variance Prohibition (Repealed)

## SUBPART D: ADJUSTED STANDARDS

- Section
- 104.400 General
- 104.402 Initiation of Proceeding
- 104.404 Request to Agency to Join as Co-Petitioner
- 104.406 Petition Content Requirements
- 104.408 Petition Notice Requirements
- 104.410 Proof of Petition Notice Requirements
- 104.412 Effect of Filing a Petition: Stay
- 104.414 Dismissal of Petition
- 104.416 Agency Recommendation and Petitioner Response
- 104.418 Amended Petition, Amended Recommendation, and Amended Response
- 104.420 Request for Public Hearing
- 104.422 Public Hearing
- 104.424 Hearing Notice
- 104.426 Burden of Proof
- 104.428 Board Action

## 104.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37, and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1,

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2357, effective January 27, 2015.

## SUBPART B: VARIANCES

**Section 104.206 Resource Conservation and Recovery Act (RCRA) Variance Petition Contents**

In addition to the requirements of Sections 104.204 and 104.208 of this Part, a petition for a RCRA variance must meet the following requirements:

- a) All petitions for RCRA variances must include a showing that the Board can grant the requested relief consistent with, and establish RCRA permit conditions no less stringent than, those that would be required by RCRA and the regulations thereunder promulgated by USEPA (40 CFR 260, 261, 262, 263, 264, 265, 266, 267, 268 and 270). Petitions must indicate whether any federal provisions authorize the relief requested, and must include any facts necessary to show that the petitioner would be entitled to the requested relief pursuant to federal law;
- b) Persons who have, or are required to have, a RCRA permit and who seek a RCRA variance that could result in modification or issuance of the RCRA permit must have on file with the Agency a RCRA permit application reflecting the requested variance prior to filing the variance petition;
- c) Petitioner must attach to the variance petition a copy of the RCRA permit application, or such portion as may be relevant to the variance request; and
- d) Petitioner must attach to the variance petition [documentation](#)proof of service on USEPA as required by Section 104.202 of this Part.

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 104.214 Agency's Notice of Petition**

- a) Within 14 days after the petition is filed, the Agency must *publish a single notice of such petition in a newspaper of general circulation* in the county where the facility or pollution source is located [415 ILCS 5/37(a)].
- b) Upon receipt of a petition for variance, *the Agency shall promptly give written notice of such petition to:*
  - 1) *Any person in the county in which the installation or property for which variance is sought is located who has in writing requested notice of variance petitions;*
  - 2) *~~The~~ State's attorney of such county;*
  - 3) *The Chairman of the County Board of such county; and*
  - 4) *Each member of the General Assembly from the legislative district in which that installation or property is located. [415 ILCS 5/37(a)]*
- c) Upon receipt of a petition for RCRA variance, the Agency must promptly give notice of the petition to:
  - 1) Federal agencies as designated by USEPA;
  - 2) Illinois Department of Transportation;
  - 3) Department of Natural Resources;
  - 4) Illinois Department of Public Health;
  - 5) The Governor of any other state adjacent to the county in which the facility or pollution source is located; and
  - 6) Elected officials of any counties, in other states, adjacent to the county in which the facility or pollution source is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility or pollution source.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) In addition to the methods of notice stated in subsection (c) of this Section, in a RCRA variance the Agency must also give notice by broadcast over at least one local radio station in the area of the facility or pollution source containing the information required by subsections (e) and (f) of this Section.
- e) All notices required by this Section must include the following:
- 1) The street address of the facility or pollution source, and if there is no street address, then the legal description or the location with reference to any well-known landmark, highway, road, thoroughfare or intersection;
  - 2) A description of the requested relief;
  - 3) An indication that any person may request a hearing by filing with the Board a written objection to the grant of the variance within 21 days after the publication of the Agency's notice, together with a written request for hearing;
  - 4) The Clerk of the Board's address and phone number, [the Board's website address](#), and a statement that a copy of the variance [petition](#) may be obtained through the Clerk's Office [or COOL, located on the Board's website](#);
  - 5) A statement that the Agency is preparing a recommendation, the date on which the recommendation is to be filed, and the name, address, [e-mail address](#), and telephone number of the Agency employee responsible for the recommendation;
  - 6) A statement that a hearing may be held after the filing of the recommendation and that the record will remain open for written comments for 45 days after filing of the recommendation. The notice will include the address of the Board to which the comments must be mailed;
  - 7) A statement that the record in the variance proceeding is available at the Board office for inspection, except those portions that are protected from disclosure under 35 Ill. Adm. Code 130, and that procedures are available whereby disclosure may be sought by the public;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 8) A statement that variances may be granted pursuant to Section 35 of the Act [415 ILCS 5/35] and 35 Ill. Adm. Code 104, and a reference to the Board regulations or order from which a variance is sought; and
- 9) Any additional information considered necessary or proper.
- f) Within 21 days after the publication of notice, the Agency must file with the Board a certification of publication that states the date on which the notice was published and must attach a copy of the published notice.

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

**Section 104.216 Agency Investigation and Recommendation**

- a) Upon receipt of a petition for variance, *the Agency shall promptly investigate such petition and consider the views of persons who might be adversely affected by the grant of a variance* [415 ILCS 5/37(a)].
- b) *The Agency shall make a recommendation to the Board as to the disposition of the petition* [415 ILCS 5/37(a)]. Unless otherwise ordered by the hearing officer or the Board, the recommendation must be filed with the Board within 45 days after the filing of the petition or amended petition, or where there has been a hearing scheduled, at least 30 days before hearing, whichever is earlier. The Agency must serve a copy of its recommendation, in accordance with 35 Ill. Adm. Code 101.304(c), by First Class mail on the petitioner, joined parties, and assigned hearing officer, if applicable. At a minimum, the recommendation must include:
  - 1) A description of the efforts made by the Agency to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained;
  - 2) The location of the nearest air monitoring station maintained by the Agency where applicable;
  - 3) A statement of the degree to which, if at all, the Agency disagrees with the facts as alleged in the petition, including facts refuting any allegations in the petition for variance;
  - 4) Allegations of any other facts the Agency believes relevant to the

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

disposition of the petition, including any past or pending enforcement actions against petitioner;

- 5) The Agency's estimate of the costs that compliance would impose on the petitioner and on others;
- 6) The Agency's estimate of the injury that the grant of the variance would impose on the public, including the effect that continued discharge of contaminants will have upon the environment;
- 7) The Agency's analysis of applicable federal laws and regulations and an opinion concerning the consistency of the petition with such federal laws and regulations;
- 8) The status of any permits or pending permit applications that are associated with or affected by the requested variance;
- 9) Allegation of any facts that the Agency believes are relevant to whether the Board should condition a grant of variance on the posting of a performance bond pursuant to Section 104.246 of this Part;
- 10) Citation to supporting documents or legal authorities whenever they are used as a basis for the Agency's recommendation. Relevant portions of the documents and legal authorities, other than Board decisions, reported state and federal court decisions, state and federal regulations and statutes, must be appended to the recommendation if not already in the record of the proceeding;
- 11) The Agency's recommendation of what disposition should be made of the petition, deny or grant, and suggested conditions. If the Agency recommends that variance be granted, a recommended beginning and end date of the requested variance, and any recommended conditions on the variance; and
- 12) An affidavit verifying any facts outside the record referenced in the recommendation.

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 104.224 Objections to Petition, Written Comments and Request for Hearing**

- a) A person who files an objection, request for hearing, or comment is a "participant" as defined in 35 Ill. Adm. Code 101.Subpart B.
- b) Except as provided in subsection (e) of this Section for RCRA variances, any person may file with the Clerk, within 21 days after the publication of the Agency's notice pursuant to Section 104.214 of this Part, a written objection to the grant of variance. The Clerk will ~~serve~~ email a copy of the objection ~~onto~~ the petitioner, the Agency, the hearing officer, and any joined parties in accordance with 35 Ill. Adm. Code 101.304(c) by First Class mail.
- c) Any person may also file a written request for hearing. The written request must be filed within 21 days after the publication of the Agency's notice pursuant to Section 104.214 of this Part in order for a hearing to be held in accordance with Section 104.236 of this Part and 35 Ill. Adm. Code 101.Subpart F.
- d) Any person may file written comments in a variance proceeding. If a hearing is held, public comments must be filed within 14 days after the close of the hearing unless the hearing officer specifies a different date. If there is no hearing, comments must be filed no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. (See 35 Ill. Adm. Code 101.628(c)(1).)
- e) In RCRA variances, subsections (b) and (c) of this Section do not apply. However, persons may file written comments within 45 days after the Agency files its recommendation.

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

## SUBPART D: ADJUSTED STANDARDS

**Section 104.408 Petition Notice Requirements**

- a) *The petitioner shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the petitioner's activity that is the subject of the adjusted standard proceeding [415 ILCS 5/28.1].*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) The title of the notice must be in the form as follows: "Notice of Petition by [petitioner's name] for an Adjusted Standard before the Illinois Pollution Control Board." The notice must contain the name and address of the petitioner and the statement that the petitioner has filed with the Board a petition for an adjusted standard. The notice must also provide the date upon which the petition was filed, the Board docket number, the regulatory standard (with appropriate Administrative Code citation) from which an adjusted standard is sought, the proposed adjusted standard, and a general description of the petitioner's activity that is the subject of the adjusted standard proceeding, and the location of that activity. This information must be presented so as to be understood in accordance with the context of this Section's requirements. The concluding portion of the notice must read as follows:

"Any person may cause a public hearing to be held in the above-described adjusted standard proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should clearly indicate the docket number for the adjusted standard proceeding, as found in this notice, The hearing request and must be mailed to the Clerk of the Board, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601, or filed electronically through COOL, located on the Board's website (www.ipcb.state.il.us)."

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

**Section 104.420 Request for Public Hearing**

- a) Any person can request that a public hearing be held in an adjusted standard proceeding. The requests must be filed not later than 21 days after the date of the publication of the petition notice in accordance with Section 104.408 of this Part. Requests for hearing should make reference to the Board docket number assigned to the proceeding. A copy of each timely hearing request will be served upon ~~mailed to~~ the petitioner and Agency by the Clerk of the Board in accordance with 35 Ill. Adm. Code 101.304(c). Participation by the public at the hearing must be in accordance with 35 Ill. Adm. Code 101.110 and 101.628.
- b) Where all parties and participants who have requested a hearing pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board in its discretion deems it advisable.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 39 Ill. Reg. 2357, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Appeals of Final Decisions of State Agencies
- 2) Code Citation: 35 Ill. Adm. Code 105
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
105.116	Amendment
105.504	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12779
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to permit, with certain limited

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

exceptions, electronic filing in all Board proceedings through the Board's Clerk's Office On-Line or "COOL", as well as service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 105 require that the record in an appeal to the Board from a final State agency decision be filed in paper; specify requirements for the agency record; and provide for e-mail service of filings in particular proceedings.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

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

## PART 105

## APPEALS OF FINAL DECISIONS OF STATE AGENCIES

## SUBPART A: GENERAL PROVISIONS

Section	
105.100	Applicability
105.102	Severability
105.104	Definitions
105.106	Computation of Time, Filing and Service Requirements
105.108	Dismissal of Petition
105.110	Hearing Process
105.112	Burden of Proof
105.114	Calculation of Decision Deadline
105.116	Record Filing
105.118	Sanctions for Untimely Filing of the Record

SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND  
OTHER FINAL DECISIONS OF THE AGENCY

Section	
105.200	Applicability
105.202	Parties
105.204	Who May File a Petition for Review
105.206	Time to File the Petition or Request for Extension
105.208	Extension of Time to File a Petition for Review
105.210	Petition Content Requirements
105.212	Agency Record
105.214	Board Hearing

## SUBPART C: CAAPP PERMIT APPEALS

Section	
105.300	Applicability
105.302	General Requirements

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

105.304 Petition Content Requirements

SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND  
STORAGE TANK (LUST) DECISIONS

## Section

105.400 Parties  
105.402 Who May File a Petition for Review  
105.404 Time for Filing the Petition  
105.406 Extension of Time to File a Petition for Review  
105.408 Petition Content Requirements  
105.410 Agency Record  
105.412 Board Hearing

SUBPART E: APPEAL OF OSFM LUST DECISIONS

## Section

105.500 Applicability  
105.502 General Overview  
105.504 General Requirements  
105.506 Petition Content Requirements  
105.508 OSFM Record and Appearance  
105.510 Location of Hearing

105.APPENDIX A Agency LUST Final Decisions that are Reviewable  
105.APPENDIX B Comparison of Former and Current Rules (Repealed)

**AUTHORITY:** Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 5, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415 ILCS 5/5, 39, 39.5, 40, 40.1, 40.2 and 57].

**SOURCE:** Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41, effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244, effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2369, effective January 27, 2015.

SUBPART A: GENERAL PROVISIONS

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 105.116 Record Filing**

- a) The State agency must file with the Board the entire record of its decision within 30 days after the filing of the petition for review, unless this Part provides otherwise, or the Board or hearing officer orders a different filing date. If the State agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. The State agency must file the original record in paper pursuant to 35 Ill. Adm. Code 101.302(h)(2). (See 35 Ill. Adm. Code 101.1050(a).)
- b) The record must contain the originals of all documents, be arranged in chronological sequence, and be sequentially numbered with the letter "R" placed before the number of each page. The record must be certified by the State agency. The certification must be entitled "Certificate of Record on Appeal". The Certificate must contain an index that lists the documents comprising the record and shows the page numbers upon which each document starts and ends. The Certificate of Record must be served on all parties by the State agency.

(Source: Amended at 39 Ill. Reg. 2369, effective January 27, 2015)

## SUBPART E: APPEAL OF OSFM LUST DECISIONS

**Section 105.504 General Requirements**

- a) **Who May File.** Any owner or operator of an underground storage tank who has been issued an "Eligibility and Deductibility Determination" letter or who has not received an "Eligibility and Deductibility Determination" letter from the OSFM within the time prescribed by Section 57.9(c)(2) of the Act, which is deemed to be a final decision appealable to the Board, may file a petition with the Board seeking review of that final decision. The owner/operator must be named as the petitioner, and the OSFM must be named as the respondent. Filing requirements are set forth at 35 Ill. Adm. Code 101.Subpart C.
- b) **Timely Petition.** The petition for review must be filed with the Board within 35 days after the date of the OSFM's "Eligibility and Deductibility Determination" letter or within 35 days from the OSFM's final decision due to its failure to act as required under Section 57.9(c)(3) of the Act. There will be a rebuttable presumption that petitioner received the OSFM's "Eligibility and Deductibility

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

Final Determination" letter four days from the date indicated on the letter.

- c) Service and Filing. The petitioner must serve all filings upon the OSFM in accordance with 35 Ill. Adm. Code 101.304(c) at the address listed in 35 Ill. Adm. Code 101.Subpart C. All filings must be accompanied by a notice of filing. Methods and documentation proof of service, as well as the effective date of service, are governed by 35 Ill. Adm. Code 101.Subpart C.

(Source: Amended at 39 Ill. Reg. 2369, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
106.100	Amendment
106.304	Amendment
106.707	Amendment
106.708	Amendment
106.718	Amendment
106.720	Amendment
106.1000	Repealed
106.1002	Repealed
106.1004	Repealed
106.1006	Repealed
106.1008	Repealed
106.1010	Repealed
106.1012	Repealed
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12785
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to 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 service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 106 add to the list of proceedings governed by Part 106; clarify service requirements for filings in certain kinds of statutory proceedings; require that the record in an appeal to the Board from a final State agency decision be filed in paper; specify requirements for the agency record, and repeal Subpart J (Sections 106.1000 – 106.1012) in its entirety due to the statutory expiration of the Board's authority to review temporary landfill ban waiver petitions.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section  
106.100      Applicability  
106.102      Severability  
106.104      Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,  
AND SULFUR DIOXIDE DEMONSTRATIONS

Section  
106.200      General  
106.202      Petition Requirements  
106.204      Additional Petition Requirements in Sulfur Dioxide Demonstrations  
106.206      Notice  
106.208      Recommendation and Response  
106.210      Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section  
106.300      General  
106.302      Initiation of Proceeding  
106.304      Petition Content Requirements  
106.306      Response and Reply  
106.308      Hearing  
106.310      Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT  
PERMIT PROGRAM (CAAPP) PERMITS

Section

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

106.400	General
106.402	Definitions
106.404	Initiation of Proceedings
106.406	Petition Content Requirements
106.408	Response and Reply
106.410	Hearing
106.412	Burden of Proof
106.414	Opinion and Order
106.416	USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL  
TECHNOLOGY DETERMINATIONS

Section	
106.500	General
106.502	Definitions
106.504	Initiation of Proceedings
106.506	Petition Content Requirements
106.508	Response and Reply
106.510	Hearing
106.512	Burden of Proof
106.514	Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER  
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

Section	
106.600	General
106.602	Initiation of Proceedings
106.604	Petition Content Requirements
106.606	Response and Reply
106.608	Hearing
106.610	Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL  
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

Section	
106.700	Purpose

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

106.702	Applicability
106.704	Termination Under Section 52.3-4(b) or (b-5) of the Act
106.706	Who May Initiate, Parties
106.707	Notice, Statement of Deficiency, Answer
106.708	Service
106.710	Notice of Hearing
106.712	Deficient Performance
106.714	Board Decision
106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION  
OF PHOSPHORUS IN DETERGENTS ACT

Section	
106.800	General
106.802	Definitions
106.804	Initiation of Proceeding
106.806	Petition Content Requirements
106.808	Response and Reply
106.810	Hearing
106.812	Burden of Proof

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND  
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

Section	
106.900	General
106.902	Initiation of Proceeding

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

106.904	Petition Content Requirements
106.906	Petition Notice Requirements
106.908	Proof of Petition Notice Requirements
106.910	Response and Reply
106.912	Hearing
106.914	Burden of Proof

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER  
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Section	
106.1000	General ( <a href="#">Repealed</a> )
106.1002	Definitions ( <a href="#">Repealed</a> )
106.1004	Initiation of Proceeding ( <a href="#">Repealed</a> )
106.1006	Petition Content Requirements ( <a href="#">Repealed</a> )
106.1008	Response and Reply ( <a href="#">Repealed</a> )
106.1010	Burden of Proof ( <a href="#">Repealed</a> )
106.1012	Board Decision ( <a href="#">Repealed</a> )

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO  
SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)

Section	
106.1100	Purpose
106.1105	General
106.1110	Definitions
106.1115	Early Screening
106.1120	Detailed Plan of Study
106.1125	Initiation of Proceeding
106.1130	Contents of Petition
106.1135	Petition Notice Requirements
106.1140	Proof of Petition Notice Requirements
106.1145	Recommendation and Response
106.1150	Request for Public Hearing
106.1155	Notice and Conduct of Hearing
106.1160	Burden of Proof
106.1165	Evidentiary Matters
106.1170	Opinion and Order
106.1175	Post-Hearing Procedures

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

106.1180 Renewal of Alternative Thermal Effluent Limitations

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

**AUTHORITY:** Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 21.622.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], and Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5].

**SOURCE:** Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 7, 2012; amended in R12-11 at 36 Ill. Reg. 16581, effective November 5, 2012; amended in R13-20 at 38 Ill. Reg. 6086, effective February 26, 2014; amended in R14-21 at 39 Ill. Reg. 2375, effective January 27, 2015.

## SUBPART A: GENERAL PROVISIONS

**Section 106.100 Applicability**

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, the involuntary termination of environmental management system agreements, authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS 92], [authorizations for certain landscape waste and compost applications and on-farm composting facilities, and petitions requesting alternative thermal effluent limitations pursuant to section 316\(a\) of the Clean Water Act \(33 USC 1326\(a\)\)](#)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~and 35 Ill. Adm. Code 304.141(c) and temporary landfill ban waivers under the Electronic Products Recycling and Reuse Act [415 ILCS 150].~~

- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

## SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

**Section 106.304 Petition Content Requirements**

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, outlining the scope of the evaluation, the nature of, the reasons for, and the basis of the exception, consistent with the burden of proof contained in Section 106.310 of this Part;
- b) The nature of the petitioner's operations and control equipment;
- c) ~~Documentation~~~~Proof~~ of service on owners required to be notified and provided with a copy of the petition as required by Section 106.302(b) of this Part, 35 Ill. Adm. Code 101, and Section 14.2(c) of the Act; and
- d) Any other information which may be required by Section 14.2 of the Act.

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL  
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)**Section 106.707 Notice, Statement of Deficiency, Answer**

- a) A proceeding to terminate an EMSA will be commenced when the Agency serves a notice of filing and a statement of deficiency upon the respondent and files ~~one original plus 9 copies of~~ the notice of filing and statement of deficiency with the

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

Clerk. ([See 35 Ill. Adm. Code 101.300\(b\) and \(c\), 101.302\(h\), and 101.304\(c\).](#))

- b) The statement of deficiency must contain:
- 1) The stated basis for the respondent's alleged deficient performance under Section 106.712(a) of this Subpart;
  - 2) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate provisions of the Act or regulations that apply to the pilot project that the EMSA does not address;
  - 3) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate the EMSA; and
  - 4) With respect to subsections (b)(1) through (b)(3) of this Section, the statement of deficiency must contain sufficient detail to advise the respondent of the extent and nature of the alleged violations to reasonably allow the respondent to prepare a defense.
- c) The respondent must file an answer within 15 days after receipt of the statement of deficiency, unless the Board or the hearing officer extends the 15-day period for good cause. All material allegations of the statement of deficiency will be taken as admitted if not specifically denied by the answer, or if no answer is filed. Any facts that constitute an affirmative defense that would be likely to surprise the complainant must be plainly set forth in the answer before hearing.

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.708 Service**

~~a) The Agency must serve a copy of the notice of filing and statement of deficiency either personally, on the respondent or the respondent's authorized agent, or by registered or certified mail, or by messenger service. (See 35 Ill. Adm. Code 101.300(c) and 101.304(c).) with return receipt signed by the respondent or the respondent's authorized agent. Proof must be made by affidavit of the person who makes personal service, or by properly executed registered or certified mail receipt. The Agency must file proof of service of the notice of filing and statement of deficiency with the Clerk immediately upon completion of service.~~

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) ~~The Agency and the respondent must serve all motions and all other notices personally, by First Class United States mail, with sufficient postage, or by overnight delivery by a nationally recognized courier service. The Agency and the respondent must file an original and 9 copies of the motions and notices with the Clerk with proof of service.~~
- e) ~~Service is presumed complete upon personal service, four days after deposit in the United States First Class mail, with sufficient postage, or the next business day upon deposit with a nationally recognized courier service for overnight delivery.~~

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.718 Motions, Responses**

- a) All motions before a hearing must be presented to the hearing officer at least 10 days before the date of the hearing.
- b) The complainant's motion to voluntarily dismiss an action as to any or all claims must be directed to the Board and may be made orally upon the hearing record, or may be made in writing at any time before the Board issues its decision.
- c) All motions must be served on all parties, including the Agency and its representative and the hearing officer, with documentation~~proof~~ of service.
- d) Unless made orally on the record during a hearing or unless the hearing officer directs otherwise, a motion must be in writing, must state the reasons for and grounds upon which the motion is made, and may be accompanied by any affidavits or other evidence relied on and, when appropriate, by a proposed order.
- e) Within 7 days after a written motion is served, or another period that the Board or hearing officer may prescribe, a party may file a response to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties will be deemed to have waived objection to the motion, but the waiver of objection does not bind the Board. The moving party does not have the right to reply, except as the hearing officer or the Board permits.
- f) No oral argument will be heard on a motion before the Board unless the Board directs otherwise. A written brief may be filed with a motion or an answer to a

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

motion.

- g) The hearing officer may rule upon all motions, except that the hearing officer has no authority to dismiss, or rule upon a motion to dismiss or decide a proceeding on the merits, or for failure to state a claim, or for want of jurisdiction, or to strike any claim or defense for insufficiency or want of proof.
- h) No interlocutory appeal of a motion may be taken to the Board from a ruling of the hearing officer.
- i) After the hearing, the Board may review the hearing officer's rulings. The Board will set aside the hearing officer's ruling only to avoid material prejudice to the rights of a party. The hearing officer, if a member of the Board, may vote upon motions to review his or her rulings as hearing officer.
- j) Unless the Board orders or this Subpart provides otherwise, the filing of a motion will not stay the proceeding or extend the time to perform any act.

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.720 Intervention**

- a) Upon timely written motion and subject to the need to conduct an orderly and expeditious hearing, the Board will permit a person to intervene in an involuntary termination proceeding under this Subpart if the person submitted written comments on the respondent's EMSA or participated in the public hearing on the respondent's EMSA by signing an attendance sheet or signature card at hearing under the procedures set forth in 35 Ill. Adm. Code 187.404, or is named or listed in the respondent's EMSA as a stakeholder, and if the Board's final order may adversely affect the person.
- b) The movant must file ~~thean original and 9 copies of a~~ motion to intervene with the Board in accordance with 35 Ill. Adm. Code 101.302(h) and serve a copy on each party in accordance with 35 Ill. Adm. Code 101.304(c) not later than 48 hours before the hearing. The Board may permit a person to intervene at any time before the beginning of the hearing when that person shows good cause for the delay.
- c) An intervenor has all the rights of an original party, except that the Board may

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

limit the rights of the intervenor in accordance with 35 Ill. Adm. Code 101.402.

(Source: Amended at 39 Ill. Reg. 2375, effective January 27, 2015)

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER  
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

**Section 106.1000 General (Repealed)**

- a) ~~Applicability. This Subpart applies to any county government or municipal joint action agency filing a petition with the Board beginning April 1, 2012, but no later than December 31, 2013, for a temporary CED landfill ban waiver under Section 95(e) of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95(e)].~~
- b) ~~Demonstration. Any county government or municipal joint action agency filing a petition for a temporary CED landfill ban waiver under this Subpart must demonstrate that *the respective county's or action agency's jurisdiction may be granted a temporary CED landfill ban waiver due to a lack of funds and a lack of collection opportunities to collect CEDs and EEDs within the county's or action agency's jurisdiction.* [415 ILCS 150/95(e)].~~
- c) ~~Parties. The person filing the petition for a temporary CED landfill ban waiver must be named the petitioner.~~
- d) ~~Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C will apply to the proceedings of this Subpart.~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1002 Definitions (Repealed)**

~~The definitions of 35 Ill. Adm. Code 101.Subpart B and Section 10 of the Electronic Products Recycling and Reuse Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise. If there is a conflict, the definitions of Section 10 of the Electronic Products Recycling and Reuse Act will apply. Terms defined in Section 10 of the Electronic Products Recycling and Reuse Act include the following:~~

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~"Covered electronic device" or "CED" means any computer, computer monitor, television, printer, electronic keyboard, facsimile machine, videocassette recorder, portable digital music player that has memory capability and is battery powered, digital video disc player, video game console, electronic mouse, scanner, digital converter box, cable receiver, satellite receiver, digital video disc recorder, or small scale server sold at retail and taken out of service from a residence in this State. "Covered electronic device" does not include any of the following:~~

~~an electronic device that is part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;~~

~~an electronic device that is functionally or physically part of a larger piece of equipment or that is taken out of service from an industrial, commercial (including retail), library checkout, traffic control, kiosk, security (other than household security), governmental, agricultural, or medical setting, including but not limited to diagnostic, monitoring, or control equipment; or~~

~~an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, water pump, sump pump, or air purifier.~~

~~To the extent allowed under federal and State laws and regulations, a CED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste. [415 ILCS 150/10]~~

~~"Eligible electronic device" or "EED" means any of the following products sold at retail and taken out of service from a residence in this State: mobile telephone; computer cable; portable digital assistant (PDA); or zip drive. To the extent allowed under federal and State laws and regulations, an EED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste. [415 ILCS 150/10]~~

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~"Municipal joint action agency" or "action agency" means a municipal joint action agency created under Section 3.2 of the Intergovernmental Cooperation Act. [415 ILCS 150/10]~~

~~"Program year" means a calendar year. The first program year is 2010. [415 ILCS 150/10]~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1004 Initiation of Proceeding (Repealed)**

~~The petitioner must file the petition for authorization with the Clerk of the Board and must serve one copy upon the Agency.~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1006 Petition Content Requirements (Repealed)**

- a) ~~The petition from the county or action agency shall include the following:~~
- ~~1) documentation of the county's or action agency's attempts to gain funding, as well as the total funding obtained, for the collection of CEDs and EEDs in its jurisdiction from manufacturers or other units of government in the State; and~~
  - ~~2) an assessment of other collection opportunities in the county's or action agency's jurisdiction demonstrating insufficient capacity for the anticipated volume of CEDs and EEDs for the remainder of the program year in which the petition is being filed. [415 ILCS 150/95(e)]~~
- b) ~~In addition to the information listed in subsection (a) of this Section, the petition from the county or action agency must also include:~~
- ~~1) total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during all preceding program years;~~
  - ~~2) total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during the year in which the petition is filed; and~~

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) ~~*the projected difference in weight between prior program year in which the petition is filed. [415 ILCS 150/95(e)]*~~
- e) ~~The petition shall include any other information that may be required by Section 95 of the Electronic Products Recycling and Reuse Act.~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1008 Response and Reply (Repealed)**

- a) ~~Within 21 days after the filing of a petition, the Agency may file a response to any petition in which it has not joined as co-petitioner. The response must include comments concerning potential Board action on the petition.~~
- b) ~~The petitioner may file a reply within 7 days after the service of any Agency response.~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1010 Burden of Proof (Repealed)**

~~The burden of proof is on the petitioner. A county government or municipal joint action agency filing a petition for a temporary CED landfill waiver ban must show by clear and convincing evidence that a county or action agency has a lack of funds and its respective jurisdiction lacks sufficient collection opportunities to collect CEDs and EEDs. [415 ILCS 150/95(e)]~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

**Section 106.1012 Board Decision (Repealed)**

- a) ~~*Within 60 days after the filing of the petition with the Board, the Board shall determine, based on the criteria in Section 95(e)(1) and (e)(2) of the Electronic Products Recycling and Reuse Act, whether a temporary CED landfill ban waiver shall be granted to the respective county or action agency for the remainder of the program year in which the petition is filed. [415 ILCS 150/95(e)]*~~
- b) ~~*If the Board grants a waiver under Section 95(e) of the Electronic Products Recycling and Reuse Act, Section 95(a) and (b) of that Act shall not apply to CEDs and EEDs that are taken out of service from residences within the*~~

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~jurisdiction of the county or action agency receiving the waiver and disposed of during the remainder of the program year in which the petition is filed. [415 ILCS 150/95(e)]~~

- e) ~~Within 5 days after granting a temporary CED landfill ban waiver, the Board shall provide written notice to the Agency of the Board's decision. The notice shall be provided at least 15 days prior to the waiver taking effect. [415 ILCS 150/95(e)]~~
- d) ~~If the Board denies the petition for a landfill ban waiver, the Board's order shall be final and immediately appealable to the circuit court having jurisdiction over the petitioner. [415 ILCS 150/95(e)]~~

(Source: Repealed at 39 Ill. Reg. 2375, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Petition to Review Pollution Control Facility Siting Decisions
- 2) Code Citation: 35 Ill. Adm. Code 107
- 3) Section Numbers:      Adopted Action:  
107.302                      Amendment  
107.304                      Amendment  
107.308                      Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12802
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to permit, with certain limited exceptions, electronic filing in all Board proceedings

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

through the Board's Clerk's Office On-Line or "COOL," as well as service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 107 require the siting authority in a pollution control facility siting appeal to file the original record in paper, clarifies copy requirements for the record, and makes various clarifying changes.

- 16) Information and questions regarding these adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER 1: POLLUTION CONTROL BOARD

## PART 107

## PETITION TO REVIEW POLLUTION CONTROL FACILITY SITING DECISIONS

## SUBPART A: GENERAL PROVISIONS

Section	
107.100	Applicability
107.102	Severability
107.104	Definitions
107.106	Description

## SUBPART B: PETITION FOR REVIEW

Section	
107.200	Who May File Petition
107.202	Parties
107.204	Time for Filing Petition
107.206	Filing and Service Requirements
107.208	Petition Content Requirements

## SUBPART C: FILING OF LOCAL RECORD

Section	
107.300	Record
107.302	Filing of the Record
107.304	Record Contents
107.306	Preparing of the Record
107.308	Certification of Record

## SUBPART D: HEARING

Section	
107.400	General
107.402	Authority and Duties of Hearing Officer
107.404	Public Participation

## SUBPART E: BOARD REVIEW AND DECISION

Section	
107.500	Preliminary Board Determination/Set for Hearing

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

107.502	Dismissal of Petition
107.504	Decision Deadline
107.506	Burden of Proof

## 107.APPENDIX A Comparison of Former and Current Rules (Repealed)

**AUTHORITY:** Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 39.2, and 40.1 of the Act [415 ILCS 5/39.2 and 40.1].

**SOURCE:** Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 539, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8828, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2391, effective January 27, 2015.

## SUBPART C: FILING OF LOCAL RECORD

**Section 107.302 Filing of the Record**

The siting authority must file the record of its proceedings with the Board as directed by Board or hearing officer order. Failure to file the entire record on the date directed by the Board or hearing officer may subject the respondent to sanctions as may be ordered by the Board in accordance with 35 Ill. Adm. Code 101.Subpart H. [The siting authority must file the original record in paper pursuant to 35 Ill. Adm. Code 101.302\(h\)\(2\). \(See 35 Ill. Adm. Code 101.1050\(a\).\)](#)

(Source: Amended at 39 Ill. Reg. 2391, effective January 27, 2015)

**Section 107.304 Record Contents**

- a) The record must contain all information or evidence presented to the local siting authority or relied upon by the local siting authority during its hearing process including:

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) The siting application;
  - 2) Any and all transcripts of local hearings;
  - 3) All briefs and other arguments and statements of parties and participants;
  - 4) All exhibits relied upon by the local siting authority in making its decision;
  - 5) All written public comments relevant to the local government proceeding;
  - 6) Minutes of all relevant open meetings of the siting authority;
  - 7) Notices of hearings or all relevant meetings of the siting authority;
  - 8) The written decision of the siting authority made pursuant to Section 39.2 of the Act;
  - 9) Certificate of Record as described in Section 107.308 of this Part; and
  - 10) *If, prior to making a final local siting decision, a county board or governing body of a municipality has negotiated and entered into a host agreement with the local siting applicant, the terms and conditions of the host agreement, whether written or oral, shall be disclosed and made a part of the hearing record for that local siting proceeding. In the case of an oral agreement, the disclosure shall be made in the form of a written summary jointly prepared and submitted by the county board or governing body of the municipality and the siting applicant and shall describe the terms and conditions of the oral agreement. [415 ILCS 5/39.2(e)]*
- b) The record must contain the originals ~~or legible copies~~ of all documents, ~~must~~ be arranged in chronological sequence, and ~~must~~ be sequentially numbered ~~with,~~ placing the letter "C" placed before the number of each page.
- e) ~~Seven copies of the transcript and one original and 9 copies of all other documents in the record must be filed with the Board.~~

(Source: Amended at 39 Ill. Reg. 2391, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 107.308 Certification of Record**

The record filed with the Board must be certified by the county clerk, if the siting authority is a county, or the municipal clerk, if the siting authority is a municipality. The certification must be entitled "Certificate of Record on Appeal". The Certificate must contain an index that lists the documents comprising the record and ~~show~~show the page ~~numbers~~number upon which each document starts and ends~~they start and end~~. The Certificate of Record must be served on all parties by the siting authority.

(Source: Amended at 39 Ill. Reg. 2391, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Administrative Citations
- 2) Code Citation: 35 Ill. Adm. Code 108
- 3) Section Number: 108.202      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendment is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12809
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to permit, with certain limited

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

exceptions, electronic filing in all Board proceedings through the Board's Clerk's Office On-Line or "COOL", as well as service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The amendments to Part 108 require that administrative citations be served personally, by registered or certified mail, or by messenger service, and not by e-mail.

16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

PART 108  
ADMINISTRATIVE CITATIONS

SUBPART A: GENERAL PROVISIONS

Section	
108.100	Applicability
108.102	Severability
108.104	Definitions

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section	
108.200	Administrative Citation Issuance
108.202	Service of Citation/Filing of Citation with the Board
108.204	Filing Requirements for Petition to Contest
108.206	Petition Contents
108.208	AC Recipient's Voluntary Withdrawal

SUBPART C: HEARINGS

Section	
108.300	Authorization of Hearing

SUBPART D: BOARD DECISIONS

Section	
108.400	Burden of Proof
108.402	Dismissal
108.404	Default
108.406	Non-Contested Citations

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

Section	
---------	--

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

108.500	Penalties and Costs
108.502	Claimed Costs of Agency or Delegated Unit
108.504	Board Costs
108.506	Response to Claimed Costs and Reply

**AUTHORITY:** Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 31.1, and 42(b)(4) of the Act [415 ILCS 5/21(o), 21(p), 31.1, and 42(b)(4)].

**SOURCE:** Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2397, effective January 27, 2015.

## SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

**Section 108.202 Service of Citation/Filing of Citation with the Board**

- a) In accordance with Section 31.1 of the Act, the Agency or Delegated Unit may serve an AC upon any person (AC Recipient) believed, through direct observation, to have violated ~~subsection (o) or (p) of~~ Section 21(o) or (p) of the Act. Service of an AC upon the AC Recipient must be made personally, by registered or certified mail, or by messenger service. (See 35 Ill. Adm. Code 101.300(c) and 101.304(c).)
- b) The AC must be issued and served upon the AC Recipient not more than 60 days after the date of the observed violation and must contain the following information:
  - 1) A statement specifying the provisions of ~~subsection (o) or (p) of~~ Section 21(o) or (p) of the Act that the AC Recipient was observed to have violated;
  - 2) A copy of the inspection report in which the Agency or Delegated Unit recorded the violation, which report must include the date and time of inspection, and weather conditions prevailing during the inspection;
  - 3) The penalty imposed by Section 42(b)(4) or (b)(4-5) of the Act for the violations;

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- 4) An affidavit by the personnel observing the violation, attesting to their material actions and observations; and
  - 5) Instructions for contesting the AC findings, including notification that the AC Recipient has 35 days within which to file a petition to contest the AC, and if an appeal is filed and the Board finds a violation, the AC ~~Recipient~~ must pay hearing costs pursuant to Section 108.500 of this Part.
- c) As required by Section 31.1 of the Act, the Agency or Delegated Unit must file the AC with the Board no later than 10 days after the date of service upon the AC Recipient.

(Source: Amended at 39 Ill. Reg. 2397, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Tax Certifications
- 2) Code Citation: 35 Ill. Adm. Code 125
- 3) Section Numbers:      Adopted Action:  
125.208                      Amendment  
125.210                      Amendment  
125.216                      Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposed Rulemaking published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12814
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to 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 service by e-mail of most types of filings. The Board also proposed a handful of updates and housekeeping amendments not directly related to electronic filing or public remarks. The proposed amendments to Part 125 add requirements for the contents and filing of the Illinois Environmental Protection Agency record in tax certification proceedings concerning potential pollution control facilities and low sulfur dioxide emission coal fueled devices. The amendments also add language explicitly addressing situations where the Board is considering denial, revocation, or modification of tax certification and a subsection setting out the process for appeal by a certificate applicant or holder of Board orders in tax certification proceedings pursuant to the Property Tax Code.

16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER I: POLLUTION CONTROL BOARDPART 125  
TAX CERTIFICATIONS

## SUBPART A: GENERAL PROVISIONS

Section	
125.100	Applicability
125.102	Severability
125.104	Definitions

SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES  
AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES

Section	
125.200	General
125.202	Tax Certification Application
125.204	Agency Recommendation
125.206	Petition to Contest
125.208	Agency Record
125.210	Public Hearing
125.212	Hearing Notice
125.214	Burden of Proof
125.216	Board Action

**AUTHORITY:** Implementing and authorized by Sections 11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55 of the Property Tax Code [35 ILCS 200/11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55] and Sections 26 and 27 of the Environmental Protection Act (the Act) [415 ILCS 5/26 and 27].

**SOURCE:** Adopted in R00-20 at 25 Ill. Reg. 642, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8838, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2402, effective January 27, 2015.

SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES  
AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 125.208 Agency Record**

The Agency must file with the Board the entire record on which it based its recommendation within 30 days after the applicant files a petition to contest under Section 125.206 of this Subpart ~~or as, unless~~ the Board or hearing officer orders ~~otherwise~~. If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. The Agency must file the original record in paper pursuant to 35 Ill. Adm. Code 101.302(h)(2). (See 35 Ill. Adm. Code 101.1050(a).) The record must comply with 35 Ill. Adm. Code 105.116(b).

(Source: Amended at 39 Ill. Reg. 2402, effective January 27, 2015)

**Section 125.210 Public Hearing**

- a) The Board will hold a public hearing in a tax certification proceeding if:
- 1) The applicant files a petition to contest in accordance with Section 125.206 of this Subpart, unless the Board disposes of the petition on a motion for summary judgment brought pursuant to 35 Ill. Adm. Code 101.516; ~~or~~
  - 2) The applicant or holder timely requests a hearing after the Board provides notice pursuant to Section 125.216(c) of this Subpart; or
  - 3) The Board, in its discretion, determines that a hearing would be advisable.
- b) If a hearing is to be held, the hearing officer will set a time and place for the hearing. The hearing officer will make an attempt to consult with the applicant and the Agency before scheduling a hearing. Hearings will be held in the county where the facility or portion thereof or the device for which the applicant seeks a tax certification is located, unless the hearing officer orders otherwise.

(Source: Amended at 39 Ill. Reg. 2402, effective January 27, 2015)

**Section 125.216 Board Action**

- a) *Pollution Control Facilities. If it is found that the claimed facility or relevant portion thereof is a pollution control facility as defined in Section 125.200(a)(1)*

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

of this Part, *the Board shall enter a finding and issue a certificate to that effect. The certificate shall require tax treatment as a pollution control facility, but only for the portion certified if only a portion is certified. The effective date of a certificate shall be the date of the application for the certificate or the date of the construction of the facility, whichever is later.* [35 ILCS 200/11-25]

- b) Low Sulfur Dioxide Emission Coal Fueled Devices. *If it is found that the claimed device meets the definition of low sulfur dioxide emission coal fueled device as set forth in Section 125.200(b)(1) of this Part, the Board shall enter a finding and issue a certificate that requires tax treatment as a low sulfur dioxide emission coal fueled device. The effective date of a certificate shall be on January 1 preceding the date of certification or preceding the date construction or installation of the device commences, whichever is later.* [35 ILCS 200/11-55]
- c) *Before denying any certificate, the Board shall give reasonable notice in writing to the applicant and provide the applicant a reasonable opportunity for a fair hearing pursuant to Section 125.210 of this Subpart. [35 ILCS 200/11-30] On like notice to the holder and opportunity for hearing,*~~*After notice to the holder of the certificate and an opportunity for a hearing pursuant to this Subpart, the Board may on its own initiative revoke or modify a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate whenever any of the following appears:*~~
- 1) *The certificate was obtained by fraud or misrepresentation;*
  - 2) *The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of pollution control facilities or a low sulfur dioxide emission coal fueled device; or*
  - 3) *The pollution control facility to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.* [35 ILCS 200/11-30]
- d) The Clerk will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any* [35 ILCS 200/11-30].
- e) *Any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low*

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

*sulfur dioxide emission coal fueled device certificate may appeal the finding and order of the Pollution Control Board, under the Administrative Review Law, to the circuit court [35 ILCS 200/11-60].*

(Source: Amended at 39 Ill. Reg. 2402, effective January 27, 2015)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Identification and Protection of Trade Secrets and Other Non-Disclosable Information
- 2) Code Citation: 35 Ill. Adm. Code 130
- 3) Section Numbers: 130.112                      Adopted Action:  
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) Effective Date of Rule: January 27, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendment is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: June 20, 2014; 38 Ill. Reg. 12821
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The Board adopted only changes of a non-substantive nature, e.g., punctuation and organization.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's opinion and order of June 5, 2014, in docket R14-21.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

The Board initiated this rulemaking to codify procedural standards for remarks by members of the public at the Board's open meetings and to 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 service by e-mail of most types of filings. The amendments to Part 130 prohibit electronic filing with the Board of documents containing trade secrets or other non-disclosable information and instead require such documents to be filed in paper.

- 16) Information and questions regarding this adopted rule shall be directed to:

Mark Powell  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R14-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

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

## PART 130

IDENTIFICATION AND PROTECTION OF TRADE SECRETS AND OTHER  
NON-DISCLOSABLE INFORMATION

## SUBPART A: GENERAL PROVISIONS

## Section

130.100	Purpose and Applicability
130.102	Additional Procedures
130.104	Definitions and Severability
130.106	Segregation of Articles
130.108	Disposal of Articles
130.110	Articles Containing Emission Data
<a href="#">130.112</a>	<a href="#">Filings with the Board</a>

SUBPART B: PROCEDURES FOR IDENTIFYING ARTICLES  
THAT REPRESENT TRADE SECRETS

## Section

130.200	Initiation of a Claim that an Article Represents a Trade Secret
130.201	State Agency Request for Justification of Claims
130.202	Time Limit for Delayed Submission of Justification
130.203	Contents of Statement of Justification
130.204	Waiver of Statutory Deadlines
130.206	Deadline for State Agency Trade Secret Determination
130.208	Standards for State Agency Determination
130.210	State Agency Actions Following a Negative Determination
130.212	State Agency Actions Following a Positive Determination
130.214	Review of State Agency Trade Secret Determination
130.216	Effect of a Determination of Trade Secret Status on Other State Agencies
130.218	Status of Article Determined or Claimed to Represent a Trade Secret Before January 1, 2001
130.220	Extension of Deadlines to Participate in Proceedings

## SUBPART C: PROCEDURES FOR PROTECTING ARTICLES

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

## THAT REPRESENT TRADE SECRETS

## Section

130.300	Applicability
130.302	Owner's Responsibility to Mark Article
130.304	State Agency's Responsibility to Mark Article
130.306	Transmission of Article Between State Agencies
130.308	Public Access to Information Related to Article
130.310	Access to Claimed or Determined Article
130.312	Unauthorized Disclosure or Use of Article
130.314	Limitation on Copying Article

SUBPART D: NON-DISCLOSABLE INFORMATION  
OTHER THAN TRADE SECRETS

## Section

130.400	General
130.402	Who May View Non-Disclosable Information
130.404	Application for Non-Disclosure
130.406	Public Inspection
130.408	Board Order

## 130.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 7 and 7.1 of the Environmental Protection Act (Act) [415 ILCS 5/7 and 7.1] and authorized by Sections 7, 7.1, 26, and 27 of the Act [415 ILCS 5/7, 7.1, 26, 27].

SOURCE: Subparts A, B, and C originally adopted in R81-30 at 7 Ill. Reg. 16149, effective November 23, 1983. Subpart D originally adopted in R88-5(A) at 13 Ill. Reg. 12055, effective July 10, 1989; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 516, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8842, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2408, effective January 27, 2015.

## SUBPART A: GENERAL PROVISIONS

[Section 130.112 Filings with the Board](#)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENT

A document containing information claimed or determined to be a trade secret or other non-disclosable information pursuant to this Part is prohibited from being filed electronically with the Board and must instead be filed with the Board only in paper pursuant to 35 Ill. Adm. Code 101.302(h)(3). (See 35 Ill. Adm. Code 101.1010(b).)

(Source: Added at 39 Ill. Reg. 2408, effective January 27, 2015)

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for Endorsements in Early Childhood Education and in Elementary Education
- 2) Code Citation: 23 Ill. Adm. Code 26
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
26.100	Amendment
26.110	Amendment
26.120	Amendment
26.125	New Section
26.130	Amendment
26.135	New Section
26.140	Amendment
26.150	Amendment
26.240	Amendment
26.245	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) Effective Date of Rule: February 2, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes; see Section 26.100(c).
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: September 5, 2014; 38 Ill. Reg. 18388
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The dates by which the candidates enrolled in programs approved under the current standards must complete those programs and receive their endorsements have been changed by one year to 2019 and 2020, respectively.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

Two changes made before First Notice have been removed and the original text restored at Section 26.125(2)(A), specifically "rhymes" to "rimes", and Section 26.130(b)(8), removal of the phrase "to analyze".

A correction was made in Section 26.100 to change "elementary" to "early childhood".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested and no agreement letter was issued.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: With the adoption of the updated Illinois Learning Standards (ILS) for English Language Arts and Literacy in History/Social Studies, Science and Technical Subjects and those in Mathematics for kindergarten through grade 12 in 2010, agency staff began work to update the standards for receipt of the early childhood endorsement. The proposed early childhood standards align to the ILS, as well as embody the Illinois Professional Teaching Standards, which are set forth in 23 Ill. Adm. 24 (Standards for All Illinois Teachers).

The newly adopted early childhood education standards consider the content and pedagogical knowledge necessary to work with children in the early childhood years of birth through grade 2 (previously, birth through grade 3). Specifically, the standards for English language arts align to the foundational knowledge and skills that preschoolers should possess to become successful readers, writers and speakers in later grades, and for English learners, emphasize the relationship between knowledge and skills needed to acquire English and those that develop concurrently as the student learns his or her home language.

The proposed math standards underscore the importance of early childhood teachers being familiar with the mathematics that they teach, understanding how children develop mathematical skills and methods, and presenting mathematical concepts in "everyday" terms or analogies that are accessible and meaningful to preschoolers.

The rules also require that beginning January 1, 2015, all early childhood programs must align to the 2010 National Association for the Education of Young Children Standards

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

for Initial and Advanced Early Childhood Professional Preparation Programs. Existing programs must show alignment to these standards no later than September 1, 2019.

The new early childhood standards take effect September 1, 2019. Candidates who are or will enroll in programs approved under the previous standards will have until September 1, 2019, to complete those programs and obtain their early childhood endorsement by September 1, 2020. No new candidates may be enrolled in programs approved under the current standards after February 1, 2017.

- 16) Information and questions regarding these adopted rules should be directed to:

Kellee Sullivan, Division Administrator  
Educator Licensure Division  
Illinois State Board of Education  
100 North First Street, E-310  
Springfield IL 62777

217/557-6763

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

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
 SUBTITLE A: EDUCATION  
 CHAPTER I: STATE BOARD OF EDUCATION  
 SUBCHAPTER b: PERSONNEL

PART 26  
 STANDARDS FOR ENDORSEMENTS IN EARLY CHILDHOOD  
 EDUCATION AND IN ELEMENTARY EDUCATION

SUBPART A: STANDARDS FOR ENDORSEMENTS  
 IN EARLY CHILDHOOD EDUCATION

## Section

26.100	Purpose and Effective Dates of Standards in Subpart A
26.110	Curriculum: General
26.120	Curriculum: English Language Arts <a href="#">Standards Through August 31, 2019</a>
<a href="#">26.125</a>	<a href="#">Curriculum: English Language Arts Standards Beginning September 1, 2019</a>
26.130	Curriculum: Mathematics <a href="#">Standards Through August 31, 2019</a>
<a href="#">26.135</a>	<a href="#">Curriculum: Mathematics Standards Beginning September 1, 2019</a>
26.140	Curriculum: Science
26.150	Curriculum: Social Science
26.160	Curriculum: Physical Development and Health
26.170	Curriculum: Fine Arts
26.180	Human Development and Learning
26.190	Diversity
26.200	Planning for Instruction
26.210	Learning Environment
26.220	Instructional Delivery
26.230	Communication
26.240	Assessment <a href="#">Standards Through August 31, 2019</a>
<a href="#">26.245</a>	<a href="#">Assessment Standards Beginning September 1, 2019</a>
26.250	Collaborative Relationships
26.260	Reflection and Professional Growth
26.270	Professional Conduct and Leadership

SUBPART B: STANDARDS FOR ENDORSEMENTS  
 IN ELEMENTARY EDUCATION

## Section

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

26.300	Purpose and Effective Dates of Standards in Subpart B
26.310	Curriculum
26.320	Curriculum: English Language Arts
26.330	Curriculum: Mathematics
26.340	Curriculum: Science
26.350	Curriculum: Social Science
26.360	Curriculum: Physical Development and Health
26.370	Curriculum: Fine Arts
26.380	Human Development and Learning
26.390	Diversity
26.400	Planning for Instruction
26.410	Learning Environment
26.420	Instructional Delivery
26.430	Communication
26.440	Assessment
26.450	Collaborative Relationships
26.460	Reflection and Professional Growth
26.470	Professional Conduct and Leadership

AUTHORITY: Implementing Article 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21B and 2-3.6].

SOURCE: Adopted at 26 Ill. Reg. 6263, effective April 22, 2002; amended at 37 Ill. Reg. 16759, effective October 2, 2013; amended at 39 Ill. Reg. 2413, effective February 2, 2015.

SUBPART A: STANDARDS FOR ENDORSEMENTS  
IN EARLY CHILDHOOD EDUCATION

**Section 26.100 Purpose and Effective Dates of Standards in Subpart A**

Beginning September 1, 2019, the provisions of Sections 26.120, 26.130 and 26.240 are replaced by Sections 26.125, 26.135 and 26.245 as This Subpart A establishes the standards that, together with the standards set forth in Standards for All Illinois Teachers (23 Ill. Adm. Code 24) and the standards in this Subpart A, shall apply to the issuance of endorsements in early childhood education on professional educator licenses pursuant to Article 21B of the School Code [105 ILCS 5/Art. 21B]. The standards set forth in this Subpart A shall apply both to candidates for an endorsement in early childhood education and to the programs that prepare them. ~~That is:~~

- a) Approval~~beginning July 1, 2003, approval~~ of any teacher preparation program or

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

course of study in early childhood education pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Subpart A. ~~;~~ ~~and~~

- b) ~~The beginning July 1, 2004, the~~ examinations required for issuance of an endorsement in early childhood education shall be based on the standards identified in this Subpart A.
- c) Beginning September 1, 2017, no candidate shall be admitted to a program that has not shown alignment to the standards set forth in Sections 26.125, 26.135 and 26.245. Any candidate who is enrolled in an early childhood education program aligned to the standards set forth in Sections 26.120, 26.130 and 26.240 shall complete the program on or before September 1, 2019 and have the early childhood education endorsement issued by September 1, 2020.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.110 Curriculum: General**

The competent early childhood teacher understands and demonstrates the central concepts, tools of inquiry, and structures of the content areas and creates and integrates meaningful learning experiences that develop children's competence across all developmental areas and content areas.

- a) Knowledge Indicators – The competent early childhood teacher:
- 1) demonstrates current knowledge of integrated learning experiences for children from birth through grade three and understands the central concepts and tools of inquiry in each of the following content areas: language and literacy (English language arts); mathematics; science; health, safety, nutrition; and movement (physical development and health); art, music; and drama (fine arts); and social science; ~~;~~
  - 2) understands conceptually sound and meaningful curriculum for children from birth through grade 2; and three.
  - 3) demonstrates an understanding of current research, best practice; and professional standards.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- b) Performance Indicators – The competent early childhood teacher:
- 1) plans, implements, and evaluates integrated, conceptually sound, meaningful learning experiences for children from birth through grade 2; ~~and three.~~
  - 2) structures a variety of learning experiences that reflect the standards set forth in this Subpart A.
- c) National Standards  
Each early childhood preparation program shall align to "2010 NAEYC Standards for Initial and Advanced Early Childhood Professional Preparation Programs" (2010) published by the National Association for the Education of Young Children, 1313 L Street, Suite 500, Washington DC 20005 and posted at <http://www.naeyc.org/ncate/standards>. (No later amendments to or editions of these standards are incorporated.)
- 1) Recognized institutions seeking initial approval for early childhood education preparation programs on or after January 1, 2015 shall align to the standards set forth in this subsection (c).
  - 2) Early childhood education preparation programs approved prior to January 1, 2015 shall meet the standards set forth in this subsection (c) no later than September 1, 2019.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.120 Curriculum: English Language Arts Standards Through August 31, 2019**

The competent early childhood teacher demonstrates proficiency in the use of oral and written English; understands and communicates ideas, information, and perspectives in reading, writing, speaking, and listening; and promotes the abilities of children from birth through grade 3~~three~~ as they apply language and thinking skills to many different genres, concepts, and situations.

- a) Knowledge Indicators – The competent early childhood teacher:
- 1) understands vocabulary and word analysis skills that promote comprehension of meaning in a variety of contexts; ~~and~~

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) understands various language components in literacy development: phonemes (sounds of the language); morphemes (words and meaningful parts of words); semantics (meaning); and syntax (sentence structure and parts of speech); as well as the pragmatic aspect of language (how language works in social contexts);-
  - 3) demonstrates knowledge of a variety of materials for promoting literacy, including various genres and authors of children's literature, trade books (fiction and nonfiction), books designed for beginning readers, "big books", anthologies, newspapers, and magazines;-
  - 4) understands a variety of age-appropriate strategies that promote reading and listening comprehension and foster development within and among the four language arts (listening, speaking, reading, and writing), including shared, guided, and interactive reading and writing;-
  - 5) understands the relationships among oral language, written language, and the basic concepts of print;-
  - 6) understands the appropriate use of the conventions involved in various forms of writing, such as stories, letters, journals, and poetry;-
  - 7) understands skills and strategies that promote listening and speaking for various purposes, discussion and comprehension, the ability to ask and respond to questions, and the ability to understand different literary and social contexts;-
  - 8) understands how to locate, organize, and use information from various sources to answer questions, solve problems, and communicate ideas; and;-
  - 9) understands children's abilities to communicate ideas through technology.
- b) Performance Indicators – The competent early childhood teacher:
- 1) uses vocabulary and word analysis skills that promote comprehension of meaning in a variety of contexts;-
  - 2) promotes integration of various language components in literacy development;-

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) identifies, evaluates, and uses a variety of materials for promoting literacy, including various genres and authors of children's literature, trade books (fiction and nonfiction), books designed for beginning readers, "big books", anthologies, newspapers, and magazines;
- 4) applies a variety of age-appropriate strategies that promote reading and listening comprehension and foster development within and among the four language arts, including shared, guided, and interactive reading and writing;
- 5) assists students in developing basic concepts of print using activities based on oral and written language;
- 6) provides opportunities for students to use writing conventions involved in various forms of writing, such as stories, letters, journals, and poetry;
- 7) facilitates skills and strategies that promote listening and speaking for various purposes, discussion and comprehension, the ability to ask and respond to questions, and the ability to understand different literary and social contexts;
- 8) provides opportunities for children to locate, organize, and use information from various sources to answer questions, solve problems, and communicate ideas; and;
- 9) promotes children's abilities to communicate ideas through technology.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.125 Curriculum: English Language Arts Standards Beginning September 1, 2019**

Each teacher holding an early childhood education endorsement shall possess the knowledge and skills articulated in this Section.

- a) Foundational Knowledge
  - 1) Language

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

The effective early childhood education teacher:

- A) applies major theories, stages and processes of first and second language acquisition, in particular understanding the importance of social interaction, culture, play, emergence of social discourse and the relationship between first and second language development during the early years;
- B) applies the nature, development and communicative role of various features of language, including the four cuing systems of graphophonemic, syntactic, semantic and pragmatic, in the language experiences of children;
- C) demonstrates the importance of play as the cognitive and social basis for the development of phonemic, semantic and pragmatic knowledge across languages in young children;
- D) supports the role of the home (the first) language in learning to read and write in a second language;
- E) applies the theories, principles and practices of emergent literacy, including the development of speaking and listening and their relationship to the developmental process of reading and writing acquisition;
- F) recognizes the sequence of stages in language, reading and writing development from birth through grade 2 using supporting evidence from theory and research, and acknowledges individual differences among children progressing through those stages. Applies understanding of the particularities of these processes for children whose first language is other than English;
- G) utilizes social discourse in developing critical thinking, argumentation and analysis;
- H) acknowledges the role of fine motor development in children's emergent literacy, specifically the ability to form letters and words through a variety of media;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- D) provides experiences with content-specific vocabulary and decontextualized language that develop children's understanding of concepts, content, skills and processes;
  - J) applies understanding of the relationship between first and second language content-specific vocabulary for children whose first language is other than English;
  - K) provides experiences explicitly designed to facilitate the acquisition of academic decontextualized language and English vocabulary for children whose first language is not English;
  - L) models and supports children's use of conventions of grammar and language of wider communication; and
  - M) supports bilingual children's awareness of differences and commonalities between the conventions of grammar and language of English and that of the home language.
- 2) Alphabetic Code  
The effective early childhood teacher:
- A) models and supports the development of phonological awareness (recognition of phonemes and the sound structure of words, including rhyming words; initial, middle and ending sounds; syllables; and onsets and rimes) and its relationship to reading and writing proficiency;
  - B) supports children's developing understanding of the orthographic-phonological system, including sound-letter relationships and common English spelling patterns and their relationship to pronunciation and developmental spelling;
  - C) supports bilingual children's awareness of the differences and commonalities between the orthographic-phonological systems of English and the home language; and
  - D) supports structural analysis (e.g., syllabication, affixes, root words) for decoding unknown words in language experiences for children.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) Text  
The effective early childhood teacher:
- A) supports the development of narratives in young children's spoken language and understanding of narrative structure;
  - B) supports the development of text awareness and emergent reading behaviors in young children, including concepts of print, book knowledge and narrative structure evidenced in picture reading, story-telling and retelling of the story;
  - C) uses "read-alouds" and shared reading experiences to support emerging language and literacy, and ongoing literacy development;
  - D) acknowledges and uses the quantitative, qualitative and individual factors that affect text complexity, including how to estimate developmentally appropriate levels of text;
  - E) uses texts that engage children with the organizational structures, literary devices, rhetorical features, text features and graphics commonly used in literary and informational texts;
  - F) uses texts that engage children with the characteristics of various genre or forms of literary and informational text;
  - G) uses a variety of textual and authentic resources that promote differentiated instruction that meets the needs of all learners;
  - H) understands the role, perspective and purpose of text in all content areas; and
  - I) supports the transference of text competencies from the home language to English for bilingual children.
- b) The Language and Literacy Curriculum  
The effective early childhood teacher:

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) understands and uses developmentally appropriate and evidence-based practices to plan, evaluate and modify instruction (e.g., use of appropriate research in identifying and implementing effective instructional practices);
- 2) knows the developmental sequence of language acquisition and emergent literacy strategies and skills, along with age-level or grade-level benchmarks of development, and utilizes them in classroom practice;
- 3) demonstrates the understanding that language is acquired through social interaction and that social discourse, in spoken and written formats, underlies all learning in literacy;
- 4) incorporates the Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age set forth in 23 Ill. Adm. Code 235.Appendix A, the Illinois Early Learning Guidelines – Children from Birth to Age 3 set forth in 23 Ill. Adm. Code 235.Appendix C, and the Illinois Learning Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects set forth in 23 Ill. Adm. Code 1.Appendix D, including their organization and progressions and the interconnections among the strategies and skills;
- 5) evaluates the components of a comprehensive curriculum that develops children's language and literacy skills and strategies, and ensures that instructional goals and objectives are met;
- 6) creates a developmentally appropriate language- and literacy-rich classroom environment that incorporates opportunities, experiences, routines and activities that promote literacy;
- 7) intentionally engages children in experiences that will build foundational literacy skills;
- 8) understands and uses evidence-based instructional strategies that have been demonstrated to be particularly successful in differentiating instruction for all learners;
- 9) builds upon children's skills in their home language to develop language and literacy skills that are transferable to English;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 10) understands and uses the relationship between first and second language and literacy development to support the transfer of language and literacy skills from the home language to English; and
  - 11) utilizes a wide range of developmentally appropriate literacy assessments (e.g., informal, observational, performance-based, standardized, diagnostic measures, universal screening, curriculum-based and progress monitoring), recognizing their purposes, strengths and limitations.
- c) Using Research-based Instructional Approaches
- 1) Current Research  
The effective early childhood teacher:
    - A) critically reviews current research in English language arts; and
    - B) applies research to instructional practice as appropriate.
  - 2) Decoding and Fluency  
The effective early childhood teacher:
    - A) uses a developmentally appropriate, balanced literacy framework, such as "read-alouds", guided reading, centers, and independent reading and writing;
    - B) systematically and intentionally engages children with authentic functions of print to develop awareness and build understanding of concepts of print and text, including the use of illustrations and graphic representations; the use and understanding of graphemes and grapheme patterns; and understanding directionality of print in a wide variety of graphic and textual formats;
    - C) intentionally and systematically engages and supports children in developing the use of oral language, play and experimentation with language;
    - D) utilizes phonologically significant text to build children's knowledge and understanding of the phonological aspects of

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

language, including the patterns of sounds and segmentation in and blending of speech at the word, syllable and phoneme levels;

E) engages children in textual experiences that provide opportunities for exploration of sound-symbol relationships at the word, syllable and phoneme levels;

F) intentionally and systematically engages children in textual experiences that provide opportunities for exploration and for embedded implicit and explicit instruction of varied and appropriate word identification strategies, including sight word recognition, phonics, and context and morphemic cues;

G) models and supports fluent language use in dialogue and in numerous and varied print sources and encourages children's developing use of fluent oral language;

H) provides intentional instruction of strategies that support the development of fluency, such as recognition of word and letter patterns, use of high frequency words and development of reading comprehension; and

I) intentionally supports the transfer of literacy competencies from the first to the second language for English learners, particularly in regards to functions of print (e.g., understanding the concepts of print and text, use of illustrations and graphic representations, use of oral language, play and experimentation with language, and sound-symbol relationships).

3) Reading Comprehension  
The effective early childhood teacher:

A) selects a balance of developmentally appropriate, high-quality, complex information and narrative texts that match children's interests, cultural backgrounds, developmental levels and reading purposes;

B) recognizes text features that may challenge readers' understanding (e.g., prior knowledge assumptions, unfamiliar vocabulary,

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

sentence complexity, unclear cohesive links, subtlety of relationships among characters or ideas, sophistication of tone, complexity of text structure, literary devices or data) and provides explicit modeling, instruction and discussion of these features to support reading comprehension;

- C) selects texts that support and build comprehension, vocabulary, understanding of text structure and literary devices and that provide clear and cohesive links between ideas and relationships. Illustrations, photographs, charts and graphs should meet the same criteria;
- D) models for and engages children in social discourse about texts as a means of scaffolding their understanding of more complex texts;
- E) provides text-appropriate supports, such as background experiences, previewing text, pre-teaching vocabulary or key information, repeated reading, discussing illustrations or other graphic features, and other strategies to enable children to understand and learn from challenging text;
- F) provides developmentally appropriate introductions to text, including materials, experiences, discussion and background connections that support children's motivation, purpose and understanding;
- G) provides developmentally appropriate modeling of and instruction on close reading of text, including identification of key ideas and details; analysis of craft, structure and illustrations; critical text evaluation; and numerous opportunities for guided and independent practice;
- H) models and engages children in the interpretation of graphic text features (e.g., tables, charts, illustrations, tables of contents, captions, headings, indexes) and includes numerous opportunities for guided and independent practice;
- I) models for and engages children in developmentally appropriate guided and independent discussions of high-level, text-dependent

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

topics and ideas requiring complex thinking, understanding, inference, application, evaluation, analysis, synthesis, persuasion and evidentiary argument;

- J) models for and engages children in developmentally appropriate independent practice of comparing multiple texts and evaluating and synthesizing information between and across texts to support coherent understanding of a topic;
- K) models for and engages children in the use of developmentally appropriate reading comprehension strategies (e.g., predicting, sequencing, connecting, visualizing, monitoring, questioning, summarizing, synthesizing, making inferences, evaluating), and includes numerous opportunities for guided and independent practice of these strategies' use in understanding text;
- L) models, discusses and supports children's developmentally appropriate use of literary elements and text features across multiple genres and disciplines in age-appropriate text;
- M) shares varied print sources, discussing, as appropriate, alternate views and perspectives of topics presented in texts;
- N) models, discusses and supports children's use of critical reading strategies, including the evaluation of text claims through identification of supporting evidence, such as evidentiary argument and persuasion;
- O) shares varied print sources, discussing, as appropriate, text structures that support children's understanding of the text;
- P) provides intentional modeling of and instruction on the use of the organizational structure of texts, including how specific sentences, paragraphs and larger portions of the text relate to each other and the whole, and offers numerous opportunities for guided and independent practice; and

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

Q) intentionally plans experiences for English learners that facilitate the transfer of effective reading comprehension strategies and competencies from the home language to English.

4) Writing

The effective early childhood teacher:

A) introduces children to the organization and basic features of print;

B) provides opportunities for children to write, including pictures and dictation, for authentic purposes in multiple forms and genres to demonstrate how ideas, thoughts and language can be represented by pictures and/or texts;

C) engages children in using drawing and writing to develop an understanding of content-area concepts and skills;

D) encourages and guides children in all stages of writing development from the earliest scribbles through conventional writing;

E) models and provides instruction in producing coherent and clear writing with organization, development, substance and style appropriate to the task, purpose and audience;

F) confers with children to motivate and scaffold children's development throughout the writing process;

G) models and provides instruction in creating a text (oral or written) that represents information learned through a hands-on experience;

H) introduces and provides instruction in creating an informative and explanatory text that introduces a topic supported by logically ordered facts, definitions, details, examples, quotations and other types of information; uses precise language, academic vocabulary and appropriate transitional devices; and concludes with a statement related to the topic;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- D) models and provides instruction in creating a text (oral or written) with a beginning, middle and end, based on real or imagined experiences or events;
- J) introduces and provides instruction in creating a narrative text based on real or imagined experiences or events that introduces a narrator and/or characters; uses dialogue, description and pacing to develop and organize a sequence of events; uses concrete words, phrases, sensory details and transitional devices; and uses a conclusion that follows from the experiences or events;
- K) models and provides instruction in creating a text (oral or written) that shares an opinion about a hands-on experience;
- L) provides instruction in creating a text that introduces an opinion on a topic, supports the opinion with information and reasons based on facts and details, uses appropriate transitional devices and concludes with a statement supporting the opinion;
- M) models and provides instruction in developing written and oral arguments to support claims in an analysis of substantive topics or texts using valid reasoning and relevant and sufficient evidence;
- N) teaches children to conduct research projects, as developmentally appropriate, using evidence drawn from multiple sources, including how to select and develop topics; gather information from a variety of sources, including the Internet; synthesize information; and paraphrase, summarize, and quote and cite sources;
- O) models and provides instruction in the conventions of standard English grammar and usage (e.g., irregular verbs, plural nouns, past tense of irregular verbs, subject-verb agreement, pronoun-antecedent agreement, conjunctions, prepositions, interjections, perfect verb tenses) in children's oral and written work;
- P) models, encourages and guides the use of widely accepted English conventions of capitalization, punctuation and spelling as children use these conventions in creating written work;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- Q) models and provides instruction in using technology to produce and publish oral and written texts and to interact and collaborate with others;
  - R) provides feedback to written work to guide the process of children's revising and editing their work; and
  - S) intentionally plans experiences for English learners that facilitate the transfer of effective writing strategies and competencies from the home language to English.
- 5) Speaking and Listening  
The effective early childhood teacher:
- A) provides opportunities for social discourse between individual children and in whole and small group collaborative discussions and assists them in following appropriate social conventions, such as eye contact, body language and taking turns;
  - B) engages children in a variety of developmentally appropriate oral language and listening activities, including following directions, asking and responding to questions, conveying information and ideas, describing feelings, and arguing and persuading;
  - C) engages children in a variety of listening activities, including identifying rhymes and sounds in the environment, discriminating phonemes and conducting other phonemic awareness activities;
  - D) models and supports children in listening actively and critically in order to understand, evaluate and respond to a speaker's message;
  - E) models, guides and instructs children in presenting ideas, opinions and information using facts and relevant details to support main ideas;
  - F) accepts children's home language and developing English language skills while modeling the widely accepted conventions of English grammar and usage; and

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

G) intentionally plans experiences for English learners that facilitate the transfer of speaking and listening strategies and competencies from the home language to English.

6) Vocabulary

The effective early childhood teacher:

A) supports vocabulary development daily by intentionally selecting literacy materials that expand children's knowledge and language development;

B) guides and supports children's explorations of word relationships and nuances in word meanings;

C) understands the socio-cultural context for language use and social discourse;

D) uses information about children's individual experiences, families, cultures and communities to create meaningful vocabulary learning opportunities and enrich instruction for all children;

E) for the instructional focus, selects appropriate words central to the meaning of the text and likely to be unknown, academic vocabulary and word relationships;

F) introduces children to word play and forms of language that enhance vocabulary and understanding of language (e.g., poetic devices, synonyms, antonyms, homonyms);

G) introduces strategies for clarifying the meaning of unknown words, including contextual analysis, structural analysis and the use of reference materials;

H) plans experiences that promote oral and written language development and the use of newly acquired vocabulary across disciplines;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- D) understands and implements the forms and functions of academic language to help children develop and express content understandings;
- J) utilizes authentic text (e.g., informational text, fiction, newspapers, recipes, charts) to help children develop word consciousness;
- K) actively engages children in using a wide variety of strategies and authentic materials for developing and expanding vocabularies; and
- L) uses home language vocabulary to develop and expand English vocabulary for English learners.

d) Authentic Materials

The effective early childhood teacher:

- 1) selects and uses a wide range of high-quality, diverse literature and informational, narrative and other texts that address the interests and social and cultural backgrounds of children at levels that are appropriate to their development and build background knowledge and understanding;
- 2) uses evidence-based and developmentally based criteria for evaluating and selecting texts and instructional materials;
- 3) estimates the accessibility of texts using qualitative and quantitative factors, as well as children's background knowledge;
- 4) uses culturally responsive texts to promote children's understanding of their lives, society and other cultures and societies;
- 5) uses a variety of technology and technologically based texts and online resources to support literacy instruction; and
- 6) makes available to English learners a wide range of high-quality, diverse literature and informational, narrative and other texts that address the interests and social, cultural and language backgrounds of these children at levels that are appropriate to their development and build background knowledge and understanding.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- e) Constructing a Supportive Language and Literacy Environment  
The effective early childhood teacher:
- 1) understands the foundational role that literacy and language play across the classroom environment and in content areas;
  - 2) sets up an environment that is safe and low risk that encourages children and allows them be comfortable taking risks;
  - 3) designs a literacy-rich environment incorporating authentic, diverse, inclusive and developmentally appropriate materials and experiences;
  - 4) understands motivation and engagement and the use of the "gradual-release-of-responsibility" approach to design learning experiences that build children's self-direction and ownership of literacy learning;
  - 5) establishes classroom routines that promote independence, self-direction, collaboration and responsibility for literacy learning;
  - 6) uses a strategic combination of flexible groupings (individual, group and whole class) to meet the learning needs of each child efficiently and effectively;
  - 7) incorporates children's choices in choosing literacy materials and activities; and
  - 8) builds collaborative classroom communities that support and engage all children in reading, writing, listening, speaking, viewing and visually representing in their home language and English.

(Source: Added at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.130 Curriculum: Mathematics Standards Through August 31, 2019**

The competent early childhood teacher demonstrates proficiency in the use of mathematics; understands and communicates the major concepts, procedures, and reasoning processes of mathematics, which include number systems, number sense, geometry, measurement, statistics, probability; and algebra; and promotes the abilities of children from birth to grade ~~3~~ as they

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

apply, interpret, and construct mathematical thinking skills in a variety of situations.

- a) Knowledge Indicators – The competent early childhood teacher:
  - 1) understands problem-solving approaches that children may use to investigate and understand mathematical content;
  - 2) understands various approaches (estimation, mental math, manipulative modeling, pattern recognition, and technology) that can be used to explore and communicate mathematical ideas, solve problems, and investigate everyday situations;
  - 3) understands concepts, skills, and procedures related to number, number sense, computation and numeration;
  - 4) understands concepts, skills, and procedures related to geometry and spatial relationships;
  - 5) understands concepts, skills, and procedures related to measurement of attributes such as length, weight, volume, and temperature;
  - 6) understands concepts, skills, and procedures needed to collect and analyze data;
  - 7) understands concepts, skills, and procedures related to exploring concepts of chance; and
  - 8) understands and uses patterns and relationships to analyze mathematical situations.
- b) Performance Indicators – The competent early childhood teacher:
  - 1) provides opportunities for students to apply problem-solving strategies in order to investigate and understand mathematical content;
  - 2) uses various approaches (estimation, mental math, manipulative modeling, pattern recognition, and technology) to assist students as they explore and communicate mathematical ideas, solve problems, and investigate everyday situations;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) provides opportunities for children to learn and apply number, number sense, computation and numeration in everyday situations;-
- 4) provides opportunities for children to learn and apply geometry and spatial relationships in everyday situations;-
- 5) provides opportunities for children to learn and apply measurements, such as length, weight, volume, and temperature, in everyday situations;-
- 6) provides opportunities for children to learn and apply procedures needed to collect and analyze data in everyday situations as they use graphing and estimation;-
- 7) provides opportunities for children to learn and apply concepts of chance in everyday situations; and-
- 8) provides opportunities for children to learn and apply patterns and relationships in their analysis of everyday situations.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.135 Curriculum: Mathematics Standards Beginning September 1, 2019**

Each teacher holding an early childhood education endorsement shall possess the knowledge and skills articulated in this Section.

a) Foundational Mathematical Knowledge

1) Mathematical Proficiency

The effective early childhood teacher:

- A) understands conceptually the mathematical content taught during preschool to grade 2 as well as the content taught in grades 3 to 8; can explain and apply mathematical concepts and procedures; and can make connections to everyday mathematical applications or real-world analogies necessary to translate formal mathematical content into meaningful instruction that children can understand and learn;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- B) understands the mathematical procedures taught during the early childhood years and just beyond, including the skills to link procedural knowledge to conceptual understanding so each step in a procedure can be explained or a procedure can be readily adapted to solve a novel problem; and
  - C) possesses affective capacities, including a productive disposition with positive beliefs about mathematics (e.g., nearly everyone is capable of understanding at an elementary level) and the confidence to tackle challenging problems and teach mathematics.
- 2) Children's Mathematical Development  
The effective early childhood teacher:
- A) understands how children develop mathematical proficiency from birth to age 8 and what conditions foster or impede this development;
  - B) understands how informal mathematical knowledge based on everyday experiences develops and provides a basis for understanding and learning formal mathematics (i.e., school-taught and largely symbolic) during the early childhood years and beyond; and
  - C) understands the developmental progressions of key early childhood concepts and skills.
- b) Pedagogical Knowledge
- 1) Best Practices  
The effective early childhood teacher:
- A) understands the importance of using a variety of teaching techniques (including regular instruction that specifically targets mathematics, integrated instruction, and unstructured and structured play) and how to systematically and intentionally engage children with developmentally appropriate and worthwhile mathematical activities, materials and ideas; take advantage of

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

spontaneous learning moments; structure the classroom environment to elicit self-directed mathematical engagement; and choose and use games to serve as the basis for intentional, spontaneous or self-directed learning;

- B) understands the importance of using instructional activities and materials or manipulatives thoughtfully and how these are used to transmit key concepts and skills;
- C) understands the importance of focusing on the learning of both skills and concepts that is meaningful;
- D) understands the importance of engaging children in the processes of mathematical inquiry (problem-solving, reasoning, conjecturing and communicating/justifying or "talking math") and how to do so effectively;
- E) understands the importance of fostering a positive disposition and how to do so effectively (e.g., encouraging children to do as much for themselves as possible), including how to prevent or remedy math anxiety; and
- F) understands the importance of using assessment on an ongoing basis in planning and evaluating instruction, targeting student needs and evaluating student progress.

2) Psychological Development

The effective early childhood teacher:

- A) understands the importance of building on what children already know, so that instruction is meaningful (e.g., how to relate or connect formal terms and procedures to children's informal knowledge);
- B) understands the importance of using developmental progressions effectively in assessing developmental readiness (e.g., identifying whether developmental prerequisites for an instructional goal have been acquired), planning developmentally appropriate instruction and determining the next instruction, step or a remedial plan;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- C) understands the importance of the limitations of children's informal knowledge and how developmentally inappropriate instruction can cause misconceptions or other learning difficulties, as well as how to address common learning pitfalls; and
- D) understands the importance of the progression in children's thinking from concrete (relatively specific and context-bound) to abstract (relatively general and context free), including the need to help children "mathematize" situations (going beyond appearances to consider underlying commonalities or patterns).

c) Standards

- 1) Counting and Cardinality  
The effective early childhood teacher:
  - A) understands that subitizing (i.e., immediately and reliably recognizing the total number of items in small collections of items and labeling the total with an appropriate number word) is the basis for a learning trajectory of verbal-based number, counting and arithmetic concepts and skills;
  - B) understands the requirements, components and principles of meaningful object counting (i.e., stable order principle, one-for-one principle, cardinality principle and abstraction principle);
  - C) understands key, more advanced verbal and object counting skills on the learning trajectory for counting and cardinality and knows how these skills are logically and developmentally related;
  - D) understands how children's ability to make verbal-based magnitude comparisons develops, including the mathematical ideas this entails;
  - E) understands why written numbers (numerals) are valuable tools (e.g., can serve as a memory aid; make written calculations with large numbers easier or even possible) and how to promote the meaningful learning of numeral reading and writing to 10; and

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

F) understands the role of estimation (e.g., useful when exact answers are not possible or an approximate answer is sufficient) and why children resist estimating answers (e.g., fear of being wrong, obsession with the correct answer as reinforced by the guess-and-check).

2) Operations and Algebraic Thinking  
The effective early childhood teacher:

A) understands the specific addition and subtraction concepts and skills children need to learn in early childhood;

B) understands the formal meaning of relational symbols and how these symbols are or can be interpreted by children; and

C) understands the specific multiplication and division concepts and skills children need to learn in early childhood.

3) Numbers and Operations in Base Ten  
The effective early childhood teacher:

A) understands, can identify and can apply the fundamental concepts of grouping and place-value that underlie the Hindu-Arabic numeral system and operations with multi-digit numbers;

B) understands the application of place value, the properties of operations, and the relation between addition and subtraction to adding and subtracting multi-digit numbers up to 1,000, including demonstrating and explaining renaming (carrying and borrowing) algorithms with base-ten blocks; and

C) understands the application of place value and properties of operations to multiply one-digit whole numbers and multiples of 10 up to 90 (e.g.,  $9 \times 80$ ), including demonstrating and explaining how the meaning of multiplication can be demonstrated with base-ten blocks.

4) Numbers and Operations: Fractions

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

The effective early childhood teacher:

- A) understands, and can explain, two common meanings of fraction notation in terms of the conceptual basis for fractions (equal partitioning) using the informal analogy of "fair" sharing;
- B) understands, and can justify, equivalent fractions in terms of the informal analogy of "fair" sharing; and
- C) understands, and can justify, fraction comparisons in terms of the informal analogy of "fair" sharing.

5) Measurement and DataThe effective early childhood teacher:

- A) understands the general principles of measurement (e.g., object attributes, direct and indirect comparisons, unit value);
- B) explicitly understands purposes of and procedures for measurements (e.g., length, time, currency, volume) commonly used in everyday life, including how to derive formulas for area and perimeter; and
- C) understands the role of data, data analysis and data representations (e.g., graphs, tables) in solving problems, raising or addressing issues or questions (e.g., scientific, social, economic or political), and informing others about the importance of involving participants in collecting and analyzing their own data.

6) GeometryThe effective early childhood teacher:

- A) understands the van Hiele developmental levels of geometric thinking and demonstrates achievement of at least Level 2 (i.e., Level 0, visual; Level 1, analysis; Level 2, informal reasoning or abstraction; Level 3, deduction; and Level 4, rigor);
- B) understands how the "big ideas" of composition and decomposition and equal partitioning apply to geometry and the developmental

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

trajectory children follow in becoming competent composers and decomposers;

- C) understands basic geometric concepts, such as angle, parallel and perpendicular, and can describe these ideas in terms of an informal analogy (e.g., an angle is the "amount of turn");
- D) understands and can summarize and illustrate the cognitive developmental progression from visual to descriptive to analytic to abstract characterizations of shapes; uses this progression to understand children's thinking;
- E) understands the importance of precision in describing and reasoning about spatial locations and relationships, including descriptive power of prepositions (and their imprecise mapping among languages and dialects) and mathematically precise tools, such as measurements, grids and the coordinate plane;
- F) understands that spatial relationships can be manipulated mentally and that point of view affects both experiences and representations of spatial relationships; and
- G) describes the connections (relationships) between geometric properties and arithmetic and algebraic properties, and adapts a problem in one domain to be solved in the other domain.

(Source: Added at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.140 Curriculum: Science**

The competent early childhood teacher understands the interrelationships among science, technology, and society; understands and applies fundamental concepts related to earth and space science, the life sciences, the physical sciences, and the environmental sciences; and promotes the scientific abilities of children ~~from birth through grade three~~ as they acquire new knowledge through the use of scientific thinking, reasoning, and inquiry.

- a) Knowledge Indicators – The competent early childhood teacher:
  - 1) understands the process of scientific inquiry and the interrelationships

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

among science, technology, and society;

- 2) understands the principles of earth and space science, the life sciences, and the physical sciences and their interconnectedness in everyday environments; and-
- 3) incorporates the Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age set forth in 23 Ill. Adm. Code 235.Appendix A, the Illinois Early Learning Guidelines – Children from Birth to Age 3 set forth in 23 Ill. Adm. Code 235.Appendix C, and the Illinois Learning Standards for Science set forth in 23 Ill. Adm. Code 1.Appendix D.

b) Performance Indicators – The competent early childhood teacher:

- 1) promotes and encourages children's innate curiosity about objects and events, respect for living organisms, and appreciation of the environment;
- 2) provides opportunities for children to conduct experiments, solve problems, apply the scientific process, and incorporate safety practices during all investigations; and-
- 3) implements activities that foster children's application of the principles of earth and space science, the life sciences, and the physical sciences, and exploration of their interconnectedness in everyday environments.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.150 Curriculum: Social Science**

The competent early childhood teacher understands the interrelationships among the social sciences; uses historical, geographical, economic, and political concepts and modes of inquiry; and promotes the abilities of children ~~from birth through grade three~~ as they begin to experience, think about, and make informed decisions as members of a culturally diverse, democratic society and interdependent world.

a) Knowledge Indicators – The competent early childhood teacher:

- 1) understands the basic concepts of and interrelationships among the social

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

sciences and the ways in which geography, history, civics, and economics relate to everyday situations and experiences;

- 2) understands geographic concepts and phenomena;
- 3) understands the major ideas, eras, themes, developments, and turning points in the history of Illinois, the United States, and the world;
- 4) understands the rights and responsibilities of citizenship in the United States;
- 5) understands the basic concepts of economic systems, with emphasis on the United States;
- 6) understands concepts related to the structure and organization of human societies and relationships among social, economic, cultural, and political activities and institutions; and
- 7) incorporates the Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age set forth in 23 Ill. Adm. Code 235.Appendix A, the Illinois Early Learning Guidelines – Children from Birth to Age 3 set forth in 23 Ill. Adm. Code 235.Appendix C, and the Illinois Learning Standards for Social Science set forth in 23 Ill. Adm. Code 1.Appendix D.

b) Performance Indicators – The competent early childhood teacher:

- 1) provides opportunities for children to develop beginning concepts, skills, and dispositions that focus on how geography, history, civics (participation and citizenship), and economics relate to everyday situations and experiences;
- 2) provides opportunities for children to use maps and symbols, observe and describe physical characteristics of local communities, and explain the interdependence of people, places, and regions;
- 3) creates opportunities for children to develop beginning historical concepts involving people, cultures, families, folklore, and related events;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 4) provides opportunities for children to explore the interrelationships among people and the roles of individuals and groups in the world in which ~~they~~we live;~~;~~
- 5) provides opportunities for children to gather, organize, map, and interpret data and to use technology to communicate concepts, information, and procedures; ~~and~~.
- 6) creates opportunities for children to understand the relationship of self to others and to social, economic, cultural, and political activities and institutions.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.240 Assessment Standards Through August 31, 2019**

The competent early childhood teacher understands various formal and informal assessment strategies and uses them to support the continuous development of all children.

- a) Knowledge Indicators – The competent early childhood teacher:
  - 1) understands assessment as a means of evaluating how children learn, what they know and are able to do in relationship to national, State, and local standards, and what kinds of experiences will support their further growth and development;~~;~~
  - 2) understands the purposes, characteristics, and limitations of different kinds of assessments;~~;~~
  - 3) understands measurement theory and assessment-related issues, such as validity, reliability, bias, and scoring;~~;~~
  - 4) understands how to use the results of assessment to reflect on and modify teaching; ~~and~~.
  - 5) understands how to select, construct, and use assessment and evaluation strategies and instruments for diagnosis and prescription.
- b) Performance Indicators – The competent early childhood teacher:

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) uses a variety of assessment results to diagnose students' learning and development, develop a student profile, align and modify instruction, and design teaching strategies;
- 2) maintains useful, accurate, and ethical records of students' work and performance and communicates about students' progress knowledgeably and responsibly to students, parents, school, and community;
- 3) uses assessment results for the purpose of planning appropriate programs, environments, and interactions and adapting for individual differences;
- 4) participates and assists other professionals in conducting family-centered assessments;
- 5) selects, evaluates, and interprets formal, standardized assessment instruments and information used in the assessment of children and integrates authentic classroom assessment data with formal assessment information;
- 6) communicates assessment results and integrates assessment results from others as an active participant in the development and implementation of students' IEPs and IFSPs;
- 7) involves families in assessing and planning for individual children, including children with disabilities, developmental delays, or special abilities; and;
- 8) uses appropriate technologies to monitor and assess students' progress.

(Source: Amended at 39 Ill. Reg. 2413, effective February 2, 2015)

**Section 26.245 Assessment Standards Beginning September 1, 2019**

The effective early childhood teacher:

- a) creates and uses assessment information both for the facilitation of child development and measuring academic achievement;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- b) uses a variety of assessment tools, including developmental continuums, universal screening, authentic assessment, diagnostic measures, curriculum-based assessment and progress monitoring procedures;
- c) monitors child progress for content area benchmarks and developmental outcomes;
- d) assesses children's interests, motivation and engagement in instruction;
- e) uses assessment data, including observational records and children's work products to plan instruction;
- f) partners with families to understand children's background and ongoing learning progress;
- g) empowers children to self-assess their learning progress;
- h) communicates academic progress and personal development to all stakeholders, including children, families, other teachers and school administrators, and communicates aggregated trends to the school board and other policy bodies;
- i) aligns assessments with required reporting mechanisms to assure that benchmarks for learning standards and developmental growth are monitored systematically; and
- j) uses, interprets and plans instruction with all forms of assessment instruments appropriate to the developmental level. These instruments include standardized instruments, textbook and other curricular instruments and teacher-developed approaches.

(Source: Added at 39 Ill. Reg. 2413, effective February 2, 2015)

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Student Records
- 2) Code Citation: 23 Ill. Adm. Code 375
- 3) Section Number: 375.10                      Proposed Action:  
Amendment
- 4) Statutory Authority: 105 ILCS 10
- 5) Effective Date of Rule: February 2, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: September 5, 2014; 38 Ill. Reg. 18424
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested and no agreement letter was issued.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Two technical changes were made in Part 375, both of which are in the definition of "Student Permanent Record". The first change reminds districts of the need to affix the State Seal of Biliteracy or the State Commendation toward Biliteracy to the academic transcripts of qualifying students, which are retained in each student's permanent school student record. The second

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

change reiterates the need for school districts to retain the copy of a student's certified birth certificate in the student's permanent record.

- 16) Information and questions regarding this adopted rule should be directed to:

Nicki Bazer, General Counsel  
Illinois State Board of Education  
100 W. Randolph, Suite 14-300  
Chicago IL 60601

312/814-2220

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

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER k: SCHOOL RECORDSPART 375  
STUDENT RECORDS

## Section

375.10	Definitions
375.20	Rights of Students
375.30	Notification
375.40	Maintenance and Destruction of School Student Records
375.50	Cost for Copies of Records
375.60	Emergency Release of Information
375.70	Release of Information
375.75	Public and Nonpublic Schools: Transmission of Records for Transfer Students
375.80	Directory Information
375.90	Challenge Procedures
375.100	Implementation
375.110	Enforcement

**AUTHORITY:** Implementing and authorized by the Illinois School Student Records Act [105 ILCS 10] and Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a].

**SOURCE:** Emergency rule adopted March 24, 1976; codified at 7 Ill. Reg. 12864; amended at 10 Ill. Reg. 12602, effective July 9, 1986; amended at 12 Ill. Reg. 4818, effective February 25, 1988; amended at 20 Ill. Reg. 15304, effective November 18, 1996; amended at 23 Ill. Reg. 13843, effective November 8, 1999; amended at 26 Ill. Reg. 16202, effective October 21, 2002; amended at 29 Ill. Reg. 5467, effective March 29, 2005; amended at 32 Ill. Reg. 7143, effective April 17, 2008; amended at 32 Ill. Reg. 16475, effective September 29, 2008; amended at 36 Ill. Reg. 2220, effective January 24, 2012; amended at 37 Ill. Reg. 9479, effective June 19, 2013; amended at 39 Ill. Reg. 2449, effective February 2, 2015.

**Section 375.10 Definitions**

"Accident Report" means documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

school program or school-sponsored activity or on a school bus and that is severe enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident, or whether the school nurse has referred the student for a medical evaluation, regardless of whether the parent, guardian or student (if 18 years or older) or an unaccompanied homeless youth (as defined by 42 USC 11434a) has followed through on that request.

"Act" means the Illinois School Student Records Act [105 ILCS 10].

"Health Record" means medical documentation necessary for enrollment and proof of dental examinations, as may be required under Section 27-8.1 of the School Code [105 ILCS 5/27-8.1].

"Health-related Information" means current documentation of a student's health information, not otherwise governed by the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110] or other privacy laws, which includes identifying information, health history, results of mandated testing and screenings, medication dispensation records and logs (e.g., glucose readings), long-term medications administered during school hours, documentation regarding a student athlete's and his or her parents' acknowledgement of the district's concussion policy adopted pursuant to Sections 10-20.53 and 34-18.45 of the School Code [105 ILCS 5/10-20.53 and 34-18.45], and other health-related information that is relevant to school participation (e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports).

"Official Records Custodian" means the individual appointed in each school in accordance with Section 4 of the Act [105 ILCS 10/4] who has responsibility for the *maintenance, care and security of all school student records, whether or not the records are in his or her personal custody or control.*

"School Student Record" shall have the meaning set forth in Section 2(d) of the Act [105 ILCS 10/2(d)], except that school student records shall not include:

Video or other electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes;

Electronic recordings made on school buses, as defined in Section 14-3 of the Criminal Code of 1961 [720 ILCS 5/14-3]; and

Any information, either written or oral, received pursuant to Section 22-20 of the School Code [105 ILCS 5/22-20] and Sections 1-7 and 5-905 of the Juvenile Court Act of 1987 [705 ILCS 405/1-7 and 5-905].

The content of a video or other electronic recording may become part of a student's school student record to the extent school officials use and maintain this content for a particular reason (e.g., disciplinary action, compliance with a student's Individualized Education Program) regarding that specific student. Video or other electronic recordings that become part of a student's school record shall not be a public record and shall be released only in conformance with Section 6(a) of the Act and the federal Family Educational Rights and Privacy Act (20 USC 1232g).

"Special Education Records" means school records that relate to identification, evaluation, or placement of, or the provision of a free and appropriate public education to, students with disabilities under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) and Article 14 of the School Code [105 ILCS 5/Art. 14], to include the report of the multidisciplinary staffing conference on which placement or nonplacement was based, and all records and audio recordings in any format relating to special education placement hearings and appeals.

"Student Permanent Record" means and shall consist of the following, as limited by Section 2(d) of the Act:

Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;

[Evidence required under Section \(5\)\(b\)\(1\) of the Missing Children's Records Act \[325 ILCS 50/5\(b\)\(1\)\];](#)

Academic transcript, including:

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

grades, class rank, graduation date and grade level achieved;

scores on college entrance examinations, except that a parent may request, in writing, the removal from the academic transcript of any score received on college entrance examinations (also see Section 375.30(d) ~~of this Part~~); ~~and~~

the unique student identifier assigned and used by the Student Information System established pursuant to ~~Section 1.75 of rules governing Public Schools Evaluation, Recognition and Supervision (see 23 Ill. Adm. Code 1.75 (Student Information System))~~;

as applicable, designation of the student's achievement of the State Seal of Biliteracy, awarded in accordance with Section 2-3.157 of the School Code [105 ILCS 5/2-3.157] and 23 Ill. Adm. Code 1.442 (State Seal of Biliteracy); and

as applicable, designation of the student's achievement of the State Commendation Toward Biliteracy, awarded in accordance with 23 Ill. Adm. Code 1.442 (State Seal of Biliteracy);

Attendance record;

Health record;

Record of release of permanent record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)];

Scores received on all State assessment tests administered at the high school level (i.e., grades 9 through 12) (see 105 ILCS 5/~~2-3.64a-52-3.64(a)~~); and

If not maintained in the temporary record, may also consist of:

Honors and awards received; and

Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

No other information shall be placed in the student permanent record.

"Student Temporary Record" means all information not required to be in the student permanent record and shall consist of the following, as limited by Section 2(d) of the Act:

A record of release of temporary record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)];

Scores received on the State assessment tests administered in the elementary grade levels (i.e., kindergarten through grade 8) (see 105 ILCS ~~5/2-3.64a-52-3.64(a)~~);

The completed home language survey form (see 23 Ill. Adm. Code 228.15 ([Identification of Eligible Students](#)));

*Information regarding serious disciplinary infractions (i.e., those involving drugs, weapons, or bodily harm to another) that resulted in expulsion, suspension or the imposition of punishment or sanction;*

*Information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/8.6], as required by Section 2(f) of the Act [105 ILCS 10/2(f)];*

Any biometric information that is collected in accordance with Section 10-20.40 or 34-18.34 of the School Code [105 ILCS 5/10-20.40 or 34-18.34];

Health-related information;

Accident Reports; and

May also consist of:

Family background information;

Intelligence test scores, group and individual;

Aptitude test scores;

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

Reports of psychological evaluations, including information on intelligence, personality and academic information obtained through test administration, observation, or interviews;

Elementary and secondary achievement level test results;

Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations;

Honors and awards received;

Teacher anecdotal records;

Other disciplinary information;

Special education records;

Records associated with plans developed under section 504 of the Rehabilitation Act of 1973 (29 USC 701 et seq.); and

Any verified reports or information from non-educational persons, agencies or organizations of clear relevance to the education of the student.

(Source: Amended at 39 Ill. Reg. 2449, effective February 2, 2015)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

STRATTON OFFICE BUILDING  
ROOM A-1  
SPRINGFIELD, ILLINOIS  
FEBRUARY 17, 2014  
11:00 A.M.

***NOTICE:** It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Auditor General

1. Purchases and Contracts (44 Ill. Adm. Code 500)
  - First Notice Published: 38 Ill. Reg. 22295 – 12/5/14
  - Expiration of Second Notice: 3/7/15

Education

2. Program for the Preparation of Principals in Illinois (23 Ill. Adm. Code 30)
  - First Notice Published: 38 Ill. Reg. 20632 – 10/31/14
  - Expiration of Second Notice: 3/6/15

Elections

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

3. Procedures for Implementing the Electronic Canvass (26 Ill. Adm. Code 219)
  - First Notice Published: 38 Ill. Reg. 20204 – 10/24/14
  - Expiration of Second Notice: 2/27/15

Financial and Professional Regulation

4. Illinois Controlled Substances Act (77 Ill. Adm. Code 3100)
  - First Notice Published: 38 Ill. Reg. 5705 – 3/7/14
  - Expiration of Second Notice: 3/06/15

Gaming Board

5. Video Gaming (General) (11 Ill. Adm. Code 1800)
  - First Notice Published: 38 Ill. Reg. 19901 – 10/17/14
  - Expiration of Second Notice: 2/20/15
6. Riverboat Gambling (86 Ill. Adm. Code 3000)
  - First Notice Published: 38 Ill. Reg. 21267 – 11/14/14
  - Expiration of Second Notice: 3/14/15

Healthcare and Family Services

7. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 38 Ill. Reg. 18308 – 9/5/14
  - Expiration of Second Notice: 3/21/15

Human Services

8. Electronic Prescription Monitoring Program (77 Ill. Adm. Code 2080)
  - First Notice Published: 38 Ill. Reg. 11412 – 5/30/14
  - Expiration of Second Notice: 2/25/15
9. Electronic Prescription Monitoring Program Long Term Care (77 Ill. Adm. Code 2081)
  - First Notice Published: 38 Ill. Reg. 11434 – 5/30/14
  - Expiration of Second Notice: 2/25/15

Insurance

10. Filing Policy and Endorsements Form (50 Ill. Adm. Code 753)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

- First Notice Published: 38 Ill. Reg. 13131 – 6/27/14
- Expiration of Second Notice: 3/17/15

11. Confidential Supervisory Information (50 Ill. Adm. Code 870)
  - First Notice Published: 38 Ill. Reg. 16523 – 8/8/14
  - Expiration of Second Notice: 3/13/15
12. Confidentiality Protocols for Request and Receipt of Claim Information by Alternative Means (50 Ill. Adm. Code 2028)
  - First Notice Published: 38 Ill. Reg. 20854 – 11/7/14
  - Expiration of Second Notice: 2/27/15
13. Health Carrier External Review (50 Ill. Adm. Code 5430)
  - First Notice Published: 38 Ill. Reg. 16596 – 8/8/14
  - Expiration of Second Notice: 4/8/15
14. Viatical Settlement Provider Reporting Requirements (50 Ill. Adm. Code 5701)
  - First Notice Published: 38 Ill. Reg. 18094 – 8/29/14
  - Expiration of Second Notice: 3/17/15

Pollution Control Board

15. Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 Ill. Adm. Code 1600)
  - First Notice Published: 38 Ill. Reg. 22411 – 12/5/14
  - Expiration of Second Notice: 3/11/15

Public Health

16. Local Health Protection Grant Rules (77 Ill. Adm. Code 615)
  - First Notice Published: 38 Ill. Reg. 16145 – 8/1/14
  - Expiration of Second Notice: 2/18/15
17. Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
  - First Notice Published: 38 Ill. Reg. 21756 – 11/21/14
  - Expiration of Second Notice: 3/14/15
18. Food Service Sanitation Code (77 Ill. Adm. Code 750)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

- First Notice Published: 38 Ill. Reg. 16682 – 8/8/14
- Expiration of Second Notice: 3/14/15

Revenue

19. Income Tax (86 Ill. Adm. Code 100)
  - First Notice Published: 38 Ill. Reg. 21295 – 11/14/14
  - Expiration of Second Notice: 2/20/15

Secretary of State

20. Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)
  - First Notice Published: 38 Ill. Reg. 20619 – 10/31/14
  - Expiration of Second Notice: 2/18/15

State Board of Investment

21. Rules and Regulations of the Board (74 Ill. Adm. Code 800)
  - First Notice Published: 38 Ill. Reg. 20862 – 11/7/14
  - Expiration of Second Notice: 2/27/15
22. State (of Illinois) Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700)
  - First Notice Published: 38 Ill. Reg. 20868 – 11/7/14
  - Expiration of Second Notice: 2/27/15

State Fire Marshal

23. Fire Truck Revolving Loan Program (41 Ill. Adm. Code 290)
  - First Notice Published: 38 Ill. Reg. 20092 – 10/24/14
  - Expiration of Second Notice: 3/15/15
24. Ambulance Revolving Loan Program (41 Ill. Adm. Code 292)
  - First Notice Published: 38 Ill. Reg. 20106 – 10/24/14
  - Expiration of Second Notice: 3/15/15
25. Fire Station Revolving Loan Program (41 Ill. Adm. Code 294)
  - First Notice Published: 38 Ill. Reg. 20121 – 10/24/14
  - Expiration of Second Notice: 3/15/15

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

**INTERNAL RULEMAKINGS**Emergency Management Agency

26. Public Information, Rulemaking and Organization (Repealer) (2 Ill. Adm. Code 1075)  
-Adopted Notice Published: 39 Ill. Reg. 1128 – 1/16/15
27. Public Information, Rulemaking and Organization (Repealer) (2 Ill. Adm. Code 1076)  
-Adopted Notice Published: 39 Ill. Reg. 1130 – 1/16/15
28. Public Information, Rulemaking and Organization (2 Ill. Adm. Code 1800)  
-Adopted Notice Published: 39 Ill. Reg. 1132 – 1/16/15

**EXEMPT RULEMAKINGS**Pollution Control Board

29. Hazardous Waste Management System: General (35 Ill. Adm. Code 720)  
-First Notice Published: 38 Ill. Reg. 20376 – 10/31/14
30. Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)  
-First Notice Published: 38 Ill. Reg. 20441 – 10/31/14
31. Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)  
-First Notice Published: 38 Ill. Reg. 20534 – 10/31/14
32. Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)  
-First Notice Published: 38 Ill. Reg. 20545 – 10/31/14
33. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)  
-First Notice Published: 38 Ill. Reg. 20558 – 10/31/14
34. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)  
-First Notice Published: 38 Ill. Reg. 20580 – 10/31/14

**EMERGENCY RULEMAKINGS**

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## FEBRUARY AGENDA

Central Management Services

35. Pay Plan (80 Ill. Adm. Code 310)  
-Notice of Emergency Published: 39 Ill. Reg. 708 – 1/9/15

**PEREMPTORY RULEMAKING**Central Management Services

36. Pay Plan (80 Ill. Adm. Code 310)  
-Notice of Peremptory Published: 39 Ill. Reg. 728 – 1/9/15

**EXPEDITED CORRECTION**Public Health

37. Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)  
-Notice of Request for Expedited Correction Published: 39 Ill. Reg. 571 – 1/2/15

**AGENCY RESPONSES**Commerce Commission

38. Governmental Electric Aggregation (83 Ill. Adm. Code 470)  
-First Notice Published: 33 Ill. Reg. 20544 – 12/27/13  
-Response: Agree to Modify

Pollution Control Board

39. General Rules (35 Ill. Adm. Code 101)  
-First Notice Published: 38 Ill. Reg. 12685 – 6/20/14  
-Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 27, 2015 through February 2, 2015. The rulemakings are scheduled for review at the Committee's February 17, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
3/11/15	<u>Department of Financial and Professional Regulation</u> , Illinois Controlled Substances Act (77 Ill. Adm. Code 3100)	3/7/14 38 Ill. Reg. 5705	2/17/15
3/13/15	<u>Department of Insurance</u> , Confidential Supervisory Information (50 Ill. Adm. Code 870)	8/8/14 38 Ill. Reg. 16523	2/17/15
3/14/15	<u>Department of Public Health</u> , Control of Communicable Diseases Code (77 Ill. Adm. Code 690)	11/21/14 38 Ill. Reg. 21756	2/17/15
3/14/15	<u>Department of Public Health</u> , Food Service Sanitation Code (77 Ill. Adm. Code 750)	8/8/14 38 Ill. Reg. 16682	2/17/15
3/14/15	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	11/14/14 38 Ill. Reg. 21267	2/17/15

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 39, Issue 7 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

17 - 2580	.....	2235
77 - 663	.....	2245
77 - 690	.....	2251
20 - 1206	.....	2262
80 - 250	.....	2267

**ADOPTED RULES**

35 - 101	1/27/2015 .....	2276
35 - 102	1/27/2015 .....	2333
35 - 103	1/27/2015 .....	2349
35 - 104	1/27/2015 .....	2357
35 - 105	1/27/2015 .....	2369
35 - 106	1/27/2015 .....	2375
35 - 107	1/27/2015 .....	2391
35 - 108	1/27/2015 .....	2397
35 - 125	1/27/2015 .....	2402
35 - 130	1/27/2015 .....	2408
23 - 26	2/2/2015 .....	2413
23 - 375	2/2/2015 .....	2449

## ORDER FORM

<input type="checkbox"/> Print Version of the Illinois Register <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (2012-2013 Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register (1977 – 2003) Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices (2010) Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
<b>TOTAL AMOUNT OF ORDER</b>	\$ _____

--	--

Check    Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover <small>(There is a \$2.00 processing fee for credit card purchases.)</small>
Card #: _____ Expiration Date: _____
Signature: _____

**Send Payment To:** Secretary of State  
 Department of Index  
 Administrative Code Division  
 111 E. Monroe  
 Springfield, IL 62756

**Fax Order To:** (217) 557-8919

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State  
[www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)