

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

2014
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(1) Agency

Environmental Hearing Board

(2) Agency Number: 106

Identification Number: 106-11

IRRC Number: 3073.

(3) PA Code Cite: Title 25, Chapter 1021

(4) Short Title: Environmental Hearing Board Rules of Practice and Procedure

(5) Agency Contacts (List Telephone Number and Email Address):

Contact: Maryanne Wesdock, (412) 565-5245, mwesdock@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposed regulations amend the Environmental Hearing Board's Rules of Practice and Procedure and may be summarized as follows:

1021.94 and 1021.94a – The rules on dispositive motions have been revised to allow the filing of responses containing additional facts or legal theories than those stated in the original motion, and establishes a different timeframe for filing such a response, as well as a reply to the response.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The Environmental Hearing Board is authorized by Section 5(c) of the Environmental Hearing Board Act, 35 P.S. 7515(c), to promulgate rules and regulations related to practice and procedure.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

1021.94 and 1021.94a – Amendments to the Environmental Hearing Board’s rules on dispositive motions clarify what types of responses may be filed to a dispositive motion.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The Environmental Hearing Board has not done a study of the rules of practice and procedure of comparable administrative tribunals in other states but does not believe that the amendments could in any way put Pennsylvania at a competitive disadvantage. We have been advised by a private practitioner in Allegheny County who has practiced in at least 20 other states that the Pennsylvania Environmental Hearing Board is "the most efficient and proficient environmental law tribunal" he had ever encountered.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

We do not believe that the proposed regulations will affect the regulations of any other state agencies. Where the regulations affect other regulations of the Environmental Hearing Board, those regulations have been so revised and are contained in this set of proposed rulemaking.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The proposed regulations are based on the recommendations of the Environmental Hearing Board Rules Committee, a nine member advisory committee established by Section 5(a) of the Environmental Hearing Board Act, 35 P.S. § 7515(a). The Committee is comprised of attorneys from both the public and private sectors appointed by the Governor, the majority and minority leadership of the House and Senate, the Secretary of the Department of Environmental Protection and the Citizens Advisory Council. Public participation in the Rules Committee meetings is encouraged and the meetings receive sunshine notice according to law.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Anyone who is a litigant before the Environmental Hearing Board will be affected by the proposed regulations. This includes the Department of Environmental Protection, the regulated community and citizens groups, and any member of the public who appeals an action of the Department of Environmental Protection. Any Commonwealth agency who appeals or joins in an action taken by the Department of Environmental Protection will also be affected by the regulations.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Any person who litigates an appeal before the Environmental Hearing Board will be required to comply with the regulations. This includes the entities listed in the response to question #15.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed regulations will benefit all litigants who appear before the Environmental Hearing Board because the regulations will clarify existing rules of practice and procedure and will also make the filing of documents with the Board more efficient. We do not perceive any financial, economic or social impact of the regulations on the entities listed in question 17.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no adverse effects of the regulations.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with

compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations will have no economic impact on the regulated community other than to possibly reduce the need for litigation over uncertainties in the rules.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations will have no economic impact on local governments other than to possibly reduce the need for litigation over uncertainties in the rules.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The regulations will have no economic impact on state government other than to possibly reduce the need for litigation over uncertainties in the rules.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

N/A – No legal, accounting or consulting procedures, reporting or recordkeeping is required.

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(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. **The exact amount of savings cannot be measured as explained in the responses to questions 19, 20 and 21.**

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						

Local Government						
State Government						
Total Savings	Not measurable	Not measurable	Not measurable	Not measurable	Not measurable	Not measurable
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	None	None	None	None	None	None
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	None	None	None	None	None	None

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Environmental Hearing Board	None	None	None	None

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation

of the report or record.

(c) A statement of probable effect on impacted small businesses.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Not applicable.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

Not applicable.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The concept of alternative regulatory approaches is not germane to procedural rules for adjudicatory proceedings, as their content is dictated by relevant statutory, regulatory and constitutional provisions, as well as judicial precedent.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;

- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The concept of conducting a regulatory flexibility analysis is not germane to procedural rules for adjudicatory proceedings, as their content is dictated by relevant statutory, regulatory and constitutional provisions, as well as judicial precedent.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable.

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: All Environmental

Hearing Board Rules Committee meetings to discuss the rules were open to the public, as well as the meeting of the Environmental Hearing Board Judges to vote on the rules. Additionally, the proposed rules will be presented to environmental practitioners for discussion and input at the Pennsylvania Bar Association Environmental and Energy Law Section meeting held annually in Harrisburg. The proposed rules will also be circulated on the Environmental and Energy Law Section's listserv.

C. The expected date of promulgation of the proposed regulation as a final-form regulation:

N/A

D. The expected effective date of the final-form regulation: omitted regulation in the Pa. Bulletin.

Upon publication as a final

E. The date by which compliance with the final-form regulation will be required: Pa. Bulletin.

Upon publication in the

F. The date by which required permits, licenses or other approvals must be obtained:

N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The regulations will continue to be evaluated by the Environmental Hearing Board Rules Committee at its meetings held every other month. Additionally, the Environmental Hearing Board receives feedback on its regulations at events held by the Pennsylvania Bar Association Environmental and Energy Law Section and county bar association environmental law sections.

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**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

Do not write in this space

Copy below is hereby approved as to form and legality. Attorney General.

By: _____
(Deputy Attorney General)

(Date of Approval)

Check if applicable
Copy not approved.
Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Environmental Hearing Board
(Agency)

Document/Fiscal Note No. 106-11

Date of Adoption: December 17, 2013

By: 

Title: Thomas W. Renwand, Chairman and Chief Judge

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

By: 
(Exec. Deputy General Counsel)

SEP 08 2014
(Date of Approval)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

**ENVIRONMENTAL HEARING BOARD
RULES OF PRACTICE AND PROCEDURE
FINAL RULEMAKING 106-11**

PREAMBLE

The Environmental Hearing Board (Board) by this final-omitted rulemaking order amends Sections 1021.94 and 1021.94a of Title 25 of the *Pennsylvania Code* as set forth at Annex A. The amendments modify the rules of practice and procedure before the Board by implementing improvements in practice and procedure.

The Board approved the regulations at its meeting on December 17, 2013.

Effective Date

The amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Contact Person

For further information, contact Maryanne Wesdock, Senior Counsel, Environmental Hearing Board at: mwesdock@pa.gov, (412) 565-5245, or Suite 310 Piatt Place, 301 Fifth Avenue, Pittsburgh, PA 15222. If information concerning this notice is required in an alternative form, please contact Vincent Gustitus, Secretary to the Board, at vgustitus@pa.gov or (717) 787-1638. TDD users may telephone the Board through the AT&T Pennsylvania relay center at 1-800-654-5984.

Statutory Authority

The regulations are promulgated under the authority of Section 5 of the Environmental Hearing Board Act (35 P.S. § 7515) which empowers the Board to adopt regulations pertaining to practice and procedure before the Board.

Submission as Final-Omitted Rulemaking

These amendments are being submitted as final-omitted rulemaking pursuant to Section 1204(3) of the Commonwealth Documents Law, 45 Pa. C.S.A. § 1204(3). An earlier version of the amendments was published as proposed rulemaking at 43 Pa.B. 2591 (May 11, 2013). Comments on the proposed rulemaking were submitted by the Independent Regulatory Review Commission (IRRC), the Department of Environmental Protection (Department) and Citizens for Pennsylvania's Future (PennFuture)

The comments and the Board's responses were discussed at a public meeting/conference call of the Board's Rules Committee held on July 25, 2013. In response to comments received during the official public comment period on the

proposed rulemaking, a draft final rulemaking was prepared that incorporated many of the comments. The Board's rules at 25 Pa. Code §§ 1021.94 (dispositive motions) and 1021.94a (summary judgment motions) were revised in order to address the comments submitted by all three parties. However, the final version of § 1021.94(c), as revised, was inadvertently omitted from the text of the rules submitted to IRRC and to the legislative committees. Therefore, those revisions were not approved by IRRC and did not appear in the final rulemaking published at 44 Pa.B. 5328 (May 9, 2014). This final-omitted rulemaking corrects that error.

Comments and Responses

In its proposed rulemaking, the Board had proposed changes to Sections 1021.94 and 1021.94a to address the following problem: When a party files a dispositive motion (such as a motion to dismiss under Section 1021.94 or a motion for summary judgment under Section 1021.94a), the other parties to the case have 30 days to file a response. In most cases, any such response will be a response in opposition to the motion. However, in the case of a third party appeal, one party may wish to file a response in support of the motion. For example, in the case of Party A v. Party B and Party C, if Party C files a motion to dismiss against Party A, Party B may wish to file a response in support of the motion. Party A, presumably, would file a response in opposition to the motion. A problem arises where the response in support of the dispositive motion is filed at or near the end of the 30 day response period, but raises new facts or legal theories not raised in the original motion. In that case, the party opposing the motion has little or no time to respond to the new facts or legal theories. Two alternative solutions to this problem were proposed:

Option 1 would prohibit parties from filing a response in support of a dispositive motion that contained new facts or legal theories. If a party wished to file a response in support of a dispositive motion containing new facts or legal theories, he/she would need to obtain leave of the Board.

Option 2 would permit the filing of a response in support of a dispositive motion containing new facts or legal theories, and would give the opposing party additional time in which to respond.

Both approaches were mentioned in the Preamble to the proposed rulemaking, but only one approach – Option 1 – appeared in the proposed text of the rule (Annex A). The Preamble stated that the Board was seeking comments on both approaches and considered each one to have equal merit.

The Board received extensive comments on the proposals from PennFuture and the Department, as well as comments from IRRC seeking clarification.

PennFuture supported Option 1, i.e., limiting responses supporting a motion for summary judgment or other dispositive motion to the legal and factual bases raised in the motion. However, PennFuture also commented that this approach did not by itself

eliminate the need for the party opposing the motion to be given additional time to address both the dispositive motion and the response in support of the dispositive motion. To ensure that the party opposing a motion for summary judgment or other dispositive motion has sufficient time to address all of the arguments and authorities presented by the moving party and any supporting parties, PennFuture recommended that the deadline for filing a response in opposition to a dispositive motion should be 30 days after service of the later of: a) the motion or b) the last timely-filed notification of joining the motion that is accompanied by a supporting memorandum of law or brief.

The Department filed comments that raised concerns about Option 1, and recommended an approach closer to that set forth in Option 2. The Department felt that parties should not be prohibited from filing a response in support of a dispositive motion that contains new facts or legal theories. The Department set forth a number of reasons in support of its position: First, the Department stated that parties often have appropriate reasons for not wanting to join in one another's dispositive motions. It pointed out that even where parties are aligned, they may have different interests with respect to the filing of a particular dispositive motion. For example, in third-party appeals, the Department's interest may be in defending the integrity of the Department process that resulted in the action, whereas the recipient of the action is simply focused on prevailing in the current litigation.

Second, the Department felt that prohibiting parties from filing responses in support of dispositive motions except as permitted by order of the Board would frustrate the "just, speedy, and inexpensive" determination of Board proceedings. For example, the Department felt that in some instances, the Board may be able to dispose of issues or entire cases based on what is included in the supporting response, saving the parties and Board the expense and time that would be necessary to resolve them after a hearing on the merits.

Third, the Department felt that Option 1 could have a chilling effect on both the Department and other parties filing supporting responses and that Option 2 allowed for a more complete record before the Board.

The Department noted that the minutes of the Rules Committee meeting where this issue was discussed identified only one problem with the current Board rules with respect to supporting responses: the current rules do not address whether parties opposing the motions have a right to respond to the supporting responses. The Department felt that the most reasonable way to address this problem would be to amend the rules to provide that the party opposed to the dispositive motion has a right to respond, rather than to amend the rules to prohibit the filing of supporting responses except as permitted by order of the Board.

Finally, the Department felt that Option 1 was unclear because of the following: it does not address when an opposing party must respond to a supporting motion, it does not provide that an opposing party may have additional time to respond to a dispositive motion when a supporting response is filed, it does not address whether a party that files

a supporting response may file a reply brief, it does not address whether a supporting response should take the form of a motion or memorandum, it does not address which “response” controls for purposes of calculating the reply time by the moving party, it does not address whether a party opposing a dispositive motion is to file one response to both the motion and the supporting response or file separate responses, and it does not contain a deadline for filing a motion requesting the Board to allow the filing of a supporting response with new facts or legal theories.

In its comments, the Department recommended an alternative amendment to the rules that would allow parties to file responses in support of a dispositive motion containing new facts or legal theories, but also provided an additional time period for the opposing party to respond to the new facts and legal theories raised in the supporting response, as well as additional time to respond to the original motion.

IRRC did not take a position on either Option 1 or 2 but raised the following questions about Option 1: What form, if any must a notification that a party is joining a dispositive motion take? How did the Board determine that 15 days is a reasonable amount of time in which to file a notification? Under what circumstances would the Board permit, by way of an order, a party to raise additional issues in support of the dispositive motion? How does a party wishing to raise additional issues request such permission in the notification and must a separate pleading or motion be filed?

After an extensive review and consideration of all of the comments, the Rules Committee recommended and the Board agreed with the alternative approach suggested by the Department in its comments. Under this approach, a party is able to file a response in support of a dispositive motion within 15 days of service of the original motion or within 15 days of the deadline for filing dispositive motions, whichever comes first. The opposing party would then have 30 days to respond to the supporting response and between 30 and 45 days to respond to the original motion, depending on how long after the original motion the response in support was filed. This approach takes into consideration PennFuture’s comment that the opposing party should be given additional time to address both the response in support and the original motion.

Both §§1021.94 and 1021.94a have been revised accordingly.

Sunset Date

A sunset date has not been established for these regulations. The effectiveness of the regulations will be evaluated on an ongoing basis by the Board and the Rules Committee.

Regulatory Review

These final-omitted regulations were submitted to IRRC, the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee on September 12, 2014. On the same date the

regulations were submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Because no action was taken by the Committees, the regulations are deemed approved pursuant to Section 5.1(j.2) of the Regulatory Review Act. IRRC met on _____, 2014 and approved the regulations pursuant to Section 5.1(e) of the Regulatory Review Act.

Findings of the Board

The Board finds that these regulations are necessary and appropriate for administration of the Environmental Hearing Board Act.

Order

- (1) The regulations of the Board are amended as set forth in Annex A.
- (2) The Chairman of the Board shall submit this order and Annex A to the Office of Attorney General and Office of General Counsel as to legality and form as required by law.
- (3) The Chairman of the Board shall submit this order and Annex A to the House Environmental Resources and Energy Committee, the Senate Environmental Resources and Energy Committee, and IRRC, as required by law.
- (4) The Chairman of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (5) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Thomas W. Renwand
Chairman and Chief Judge

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART IX. ENVIRONMENTAL HEARING BOARD

CHAPTER 1021. PRACTICE AND [PROCEDURES] PROCEDURE

MOTIONS

§ 1021.94. Dispositive motions other than summary judgment motions.

* * * * *

(b) Parties, other than the moving party, that wish to support a pending dispositive motion may file a memorandum of law within 15 days of service of the motion or within 15 days of the deadline for filing dispositive motions, whichever comes first. The scope of facts that the Board will consider in support of the motion is limited to the scope in the original motion unless a separate dispositive motion accompanies the supporting party's memorandum of law.

(c) A response to a dispositive motion [may] shall be filed within 30 days of service of the motion, or, if a supporting party files a memorandum of law alone, within 30 days of service of that memorandum of law. The response to a dispositive motion shall be accompanied by a supporting memorandum of law or brief.

(d) A moving party, or a supporting party that files a memorandum of law alone, may file a reply to a response to a dispositive motion within 15 days of the date of service of the response. The reply may be accompanied by a supporting memorandum of law or brief. Reply briefs or memoranda of law shall be as concise as possible and may not exceed 25 pages. Longer briefs or memoranda of law may be permitted at the discretion of the [presiding administrative law judge] Board.

[(d)] (e) An affidavit or other document relied upon in support of a dispositive motion or response, that is not already a part of the record, shall be filed at the same time as the motion or response or it will not be considered by the Board in ruling thereon.

(f) When a dispositive motion is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials of the adverse party's pleading or its notice of appeal, but the adverse party's response must set forth specific issues of fact or law showing there is a genuine issue for hearing. If the adverse party fails to adequately respond, the dispositive motion may be granted against the adverse party.

[(e)] (g) Subsection (a) supersedes 1 Pa. Code § 35.177 (relating to [the] scope and content of motions). Subsection (b) supersedes 1 Pa. Code § 35.179 (relating to [objecting] **objections** to motions).

§ 1021.94a. Summary judgment motions.

* * * * *

(f) *Other parties supporting a motion for summary judgment.* Parties, other than the moving party, that wish to support a pending motion for summary judgment may file a memorandum of law within 15 days of service of the motion or within 15 days of the deadline for dispositive motions, whichever comes first. The scope of facts that the Board will consider in support of the motion is limited to the scope in the original motion unless a separate motion for summary judgment accompanies the supporting party's memorandum of law.

(g) *Opposition to motion for summary judgment.* Within 30 days of [the date of] service of the motion, or, if a supporting party files a memorandum of law alone, within 30 days of service of the memorandum of law, a party opposing the motion shall file the following:

* * * * *

[(g)] (h) *Length of brief in support of and in opposition to summary judgment.* Unless leave of the Board is granted, the brief in support of or in opposition to the motion may not exceed 30 pages.

[(h)] (i) *Evidentiary materials.* Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment or response must accompany the motion or response and be separately bound and labeled as exhibits. Affidavits must conform to Pa.R.C.P. 76 and 1035.4 (relating to definitions; and affidavits).

[(i)] (j) *Proposed order.* The motion shall be accompanied by a proposed order.

[(j)] (k) *Reply brief.* Within 15 days of service of the response, the movant, or a supporting party that files a memorandum of law alone, may file a reply brief. The reply brief may not exceed 15 pages unless leave of the Board is granted. Additional briefing may be permitted at the discretion of the [presiding administrative law judge] **Board**.

[(k)] (l) *Summary judgment.* When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading or its notice of appeal, but the adverse party's response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing there is a genuine issue for hearing. If the adverse party does not so respond, summary judgment may be entered against

the adverse party. Summary judgment may be entered against a party who fails to respond to a summary judgment motion.

[(1)] (m) *Judgment rendered.* The judgment sought shall be rendered forthwith if the motion record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Comment

The statement of material facts should be limited to those facts which are material to disposition of the summary judgment motion and should not include lengthy recitations of undisputed background facts or legal context.



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

September 12, 2014

Honorable Gene Yaw
Chair, Senate Committee on
Environmental Resources and Energy
Room 362 Main Capitol
Harrisburg, PA 17120-3023

Honorable John Yudichak
Minority Chair, Senate Committee on
Environmental Resources and Energy
Room 366 Main Capitol
Harrisburg, PA 17120-3014

Honorable Ron Miller
Chair, House Committee on
Environmental Resources and Energy
115 Ryan Office Building
Harrisburg, PA 17120-2093

Honorable Greg Vitali
Minority Chair, House Committee on
Environmental Resources and Energy
38B East Wing
Harrisburg, PA 17120-2166

Robert Mulle
Chief Deputy Attorney General
Office of Attorney General
15th Floor Strawberry Square
Harrisburg, PA 17120

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

RE: Final Omitted Revisions to Environmental Hearing Board Rules of Practice and Procedure,
25 Pa. Code Chapter 1021 (Final Omitted Rulemaking 106-11)

Dear Sir or Madam:

In accordance with the provisions of the Regulatory Review Act, the Environmental Hearing Board is transmitting a copy of final omitted revisions to its rules of practice and procedure at 25 Pa. Code Chapter 1021 (Final Omitted Rulemaking 106-11) for review.

The revisions have been reviewed and approved by the Office of General Counsel and the Governor's Office of Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Maryanne Wesdock". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Maryanne Wesdock
Senior Assistant Counsel
ENVIRONMENTAL HEARING BOARD
mwesdock@pa.gov
(412) 565-5245

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: I.D. No. 106- 11

SUBJECT: Practice and Procedures - General Revisions, 25 Pa. Code, Chapter 1021

AGENCY: Environmental Hearing Board


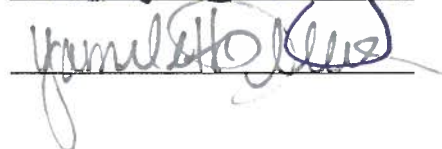

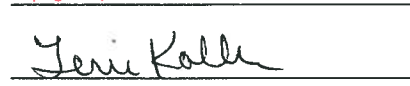

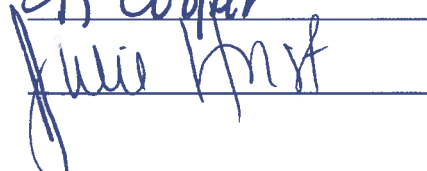
TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

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FILING OF REGULATION

		Date
Senate Committee		
Environmental Resources & Energy		
Majority Chair – Hon. Gene Yaw	<u></u>	<u>9-12-14</u>
Minority Chair – Hon. John Yudichak	<u></u>	<u>9/12/14</u>
House Committee		
Environmental Energy & Resources		
Majority Chair – Hon. Ron Miller	<u></u>	<u>9-12-14</u>
Minority Chair – Hon. Greg Vitali	<u></u>	<u>9-12-14</u>
Independent Regulatory Review Commission		
	<u></u>	<u>9/12/14</u>
Attorney General	<u></u>	<u>9-12-14</u>