

Regulatory Analysis Form

(Completed by Promulgating Agency)

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

**INDEPENDENT REGULATORY
REVIEW COMMISSION****RECEIVED**Independent Regulatory
Review Commission

August 25, 2026

(1) Agency

Environmental Hearing Board

(2) Agency Number: 106

Identification Number: 106-16

IRRC Number: 3496

(3) PA Code Cite: 25 Pa. Code Chapter 1021

(4) Short Title: Rules of Practice and Procedure – General Update

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

Primary Contact: Madison Hinkle, 412-565-3608, madhinkle@pa.gov

Secondary 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 Environmental Hearing Board (Board) proposes to amend 25 Pa. Code Chapter 1021 (relating to practice and procedure) by revising existing rules.

The proposed amendments address the following topics: electronic signatures; mandatory electronic filing requirements; service by email; amendments to appeals or complaints; dispositive motions other than summary judgment motions; summary judgment motions; prehearing procedures with respect to expert discovery; venue of hearings; and composition of the certified record on appeal.

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

The Board is authorized by section 5 (c) of the Environmental Hearing Board Act, 35 P.S. § 7515(c), to promulgate rules and regulations relating to practice and procedure. This subsection states, “The rules committee shall recommend to the board regulations for hearings conducted by the board and for the use of mediation under section 4(h). The regulations shall include time limits and procedures for the taking of appeals and locations of hearings. Regulations under this subsection shall be promulgated by the board upon a majority affirmative vote on the recommended regulations.”

(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, the regulation is not mandated by any federal or state law or court order, or federal regulation; and there are no relevant state or federal court decisions.

(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.

1. § 1021.31. *Signing.*

This proposed amendment is necessary to reflect updates in technology and comports with what other courts and administrative tribunals are currently allowing. The section has been amended to allow for electronic signatures on electronic filings.

2. § 1021.32. *Filing.*

The proposed amendment to this section is necessary to reflect the Board’s practice in handling electronic filing requirements for pro se parties. This section has been amended to excuse pro se appellants from mandatory electronic filing requirements. While electronic filing is mandatory for attorneys unless excused by the Board, it has been the Board’s practice not to require mandatory electronic filing by pro se parties. Attorneys that wish to be excused from mandatory electronic filing requirements must still file a motion.

An additional proposed amendment is necessary to reflect updates in technology. This section has also been amended to reflect the amendment to § 1021.31 (Signing) allowing for electronic signatures by removing the word “actual” before “signatures.”

3. § 1021.33. *Service by the Board.*

§ 1021.34. *Service by a party.*

§ 1021.35. *Date of service.*

The proposed amendments to these sections are necessary to reflect updates in technology and the widespread usage of electronic mail. The amendments allow for persons who have been excused from mandatory electronic filing requirements to be served by e-mail, if they so consent, rather than by mail or in person, as use of e-mail has become more prolific with many people. The title of § 1021.34 has also been amended to clarify that it refers only to service of documents filed with the Board, as there are certain filings that are served by a party on another party without being filed with the Board.

4. § 1021.53. *Amendments to appeal or complaint.*

The proposed amendment to this section is necessary to reflect what is truly necessary under the new standard established in 2006 for parties seeking leave to amend an appeal. This section has been amended to remove the requirement that parties wishing to amend their appeal or complaint verify and support their motion for leave to amend with affidavits. The section was previously amended in 2006 to revise the standard for seeking leave to amend an appeal. Under the pre-2006 version of the rule, a party had to show good cause, and specifically, instances of either fraud or breakdown in the court's operation, or a showing that the new grounds for appeal could not have been obtained except through discovery. *Alice Water Protection Ass'n v. DEP*, 1996 EHB 983, 985. A verification and affidavits were required to support those allegations. Under the current, post-2006 standard, which simply requires a party seeking leave to show no undue prejudice, there is no longer a need for verification or affidavits. *Ullom v. DEP*, 2025 EHB 501; *Borough of St. Clair v. DEP*, 2013 EHB 171, 172.

5. § 1021.94a. *Summary judgment motions.*

The proposed amendments to this section are necessary to aid in efficiency of exhibit review. This section has been amended to instruct parties to include page numbering and a table of contents when filing exhibits as one document. This will aid in the efficiency of the review of such exhibits.

6. § 1021.101. *Prehearing procedure.*

The proposed amendment to this section is necessary to eliminate confusion and clarify requirements relating to expert discovery. This section has been amended to include a cross reference to the Pennsylvania Rules of Civil Procedure with respect to expert discovery. The amendment also clarifies what must be included *in addition to* an expert's report when served in lieu of answers to expert interrogatories.

7. § 1021.114. *Venue of hearings.*

The proposed amendment to this section is necessary to reflect the variety in availability of hearing forums as established after the covid-19 pandemic. This section has been amended to allow for hearings to be held either in person, by video conference, or by a combination of the two, whereas it previously only allowed for hearings in person. After the use of videoconference for hearings during the covid-19 pandemic, parties indicated it was helpful to have videoconference as an option for hearings.

8. § 1021.201. *Composition of the certified record on appeal.*

The proposed amendment to this section is necessary to reflect updates in case law allowing certain appeals from actions of the Board to be filed with the United States Court of Appeals for the Third

Circuit, as well as to reflect updates in technology with respect to the composition of certified records. This section has been amended to address appeals of Board adjudications or opinions that rest with the United States Court of Appeals for the Third Circuit, in addition to those that rest with the Commonwealth Court of Pennsylvania. The section was also amended to reflect updates in technology and filing requirements with the Commonwealth Court of Pennsylvania, which now allows for electronic filing whereas it previously only allowed hard copy filing.

There are no quantifiable “benefits.” The rules are procedural, not substantive. The “benefit” of revising the Board’s rules is to ensure that the rules are clear, helpful and understandable to all parties who practice before the Board.

There is no set number of litigants who appear before the Board. However, over 1,500 attorneys are registered for electronic filing with the Board, and approximately one third of those registered for electronic filing have actively used the electronic filing system since the Board launched its new website in July of 2024. Because electronic filing is mandatory in most instances, this provides a good estimate of the number of attorneys who will be affected by revisions to the Board’s rules of procedure. Those attorneys will benefit from having rules of procedure that are clear and understandable.

The Board’s rules are comparable to the Pennsylvania Rules of Civil Procedure. Just as there is no certain way to determine how many attorneys will “benefit” from the Pa. Rules of Civil Procedure, there is no certain way to determine how many attorneys will “benefit” from the Board’s Rules of Practice and Procedure. However, there is certainty in saying that any attorney or *pro se* litigant who appears before the Board will benefit from having a set of procedural rules that explain and clarify the procedure to be followed throughout the proceeding.

(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, there are no provisions that are more stringent than federal standards. The federal rules allow for electronic signatures; *pro se* parties *may* file electronically but are not required to do so; they allow for service via electronic means other than the electronic filing system so long as the person consents; amendments to an appeal before trial do not require verification and affidavits; there is no contemplation in the federal rules of exhibits filed as a single document and therefore the board’s proposed rule is not more stringent; the rules regarding expert testimony are more stringent in the federal rules by requiring more detailed information; and the federal rules do not contemplate videoconference for hearings, making the board’s proposed rules less stringent.

(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 Board and the Rules Committee have looked to the Pennsylvania Rules of Civil Procedure, the General Rules of Practice and Procedure (1 Pa. Code Part II, §§ 31.1 – 35.251), and local rules of

various courts of common pleas for guidance in drafting its rules. Examining the procedural rules of other Pennsylvania courts has been helpful in crafting procedural rules dealing with Pennsylvania practice. Where rules exist in other states, they are not relevant to Pennsylvania practice and may not be comparable. The Rules Committee has found that the Pennsylvania Rules of Civil Procedure provide the best guidance. In some cases, local rules of county common pleas courts and federal rules have provided a helpful model.

These revisions to the Board's rules will in no way place Pennsylvania at a competitive disadvantage with other states. The Board is the statutorily-created body for hearing appeals of actions of the Pennsylvania Department of Environmental Protection (DEP). The Board's jurisdiction is set forth in section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, which states that the Board has the power and duty to hold hearings and issue adjudications on orders, permits, licenses or decisions of the DEP. Most of the statutes enforced and administered by the DEP provide that the proper forum to hear appeals of DEP actions is the Environmental Hearing Board. The proposed rule revisions contained in this proposed rulemaking package serve to clarify practice before the Board.

The proposed rule revisions discussed herein place no additional burden on regulated industry or require any specific action on the part of the regulated community. Amendments to the Board's Rules of Practice and Procedure are being proposed for the purpose of simplifying and clarifying the process of appearing before the Board. The rules generally come about as the result of someone identifying an area of the rules that needs clarification, including the Board judges or attorneys, a member of the Rules Committee, a member of the Pennsylvania environmental bar, or a member of the public.

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

The regulations do not affect the regulations of any other state agencies. Where the regulations affect other regulations of the Board, those regulations have been so revised and are contained in this 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 Rules 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. The minutes of the Rules Committee meetings are found on the Board's website at <https://ehb.pa.gov/minutes>. The minutes are extremely detailed and contain extensive information for members of the environmental bar that practice before the Board, as well as

the public. Discussion of the amendments to § 1021.31 and § 1021.32 took place at the November 10, 2022 and November 13, 2025 meetings. Discussion of the amendments to §§ 1021.33–1021.35 took place at the May 11, 2023 meeting. Discussion of the amendments to § 1021.53 and § 1021.201 took place at the September 10, 2025 meeting. Discussion of the amendment to § 1021.94a took place at the March 9, 2023 and March 14, 2024 meetings. Discussion of the amendments to § 1021.101 took place at the September 19, 2024 meeting and discussion of the amendments to § 1021.114 took place at the March 9, 2023 meeting.

The Rules Committee makes great efforts to communicate with and solicit input from the regulated community and the environmental bar. At the annual Pennsylvania Bar Institute Environmental Law Forum, the Judges of the Environmental Hearing Board and the Chairperson of the Rules Committee discuss proposed regulations and solicit input from attendees, who consist of members of the Pennsylvania environmental bar and who represent all facets of parties who appear before the Board, individual appellants, citizen groups, businesses and the DEP. The Board Judges and Rules Committee Chairperson also present programs at various county bar associations where input on proposed rules is solicited. Additionally, input is solicited from the environmental bar by means of the Pennsylvania Bar Association Environmental and Energy Law Section (EELS), which holds monthly council meetings and biannual Section meetings, operates a listserv and publishes a newsletter. The Board's liaison to the Rules Committee participates in most of the EELS activities and events, and the Board Judges and Rules Committee Chairperson and members are frequent participants. EELS members are notified of upcoming Rules Committee meetings.

(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?

It is difficult to quantify the number of persons, businesses, small businesses and organizations that will be affected. Anyone who is a litigant before the Board will be affected by the regulations. This includes the DEP, the regulated community and citizens groups, and any member of the public who appeals an action of the DEP. Any Commonwealth agency that appeals or joins in an action taken by the DEP will also be affected by the regulations.

In 2025, 138 appeals were filed with the Board. In 2024, 185 appeals were filed. In 2023, 98 appeals were filed, and in 2022, 106 appeals were filed. As of February 11, 2026, 9 appeals had been filed. In each appeal there is at least one appellant and the DEP, which is always a party. In many cases, there is also a third party, who is the holder of a permit that is being challenged. In some cases, there may be intervenors. All of these persons are affected by any revision to the Rules of Practice and Procedure, just as any litigant who appears before a Pennsylvania Court of Common Pleas is affected by revisions to the Pennsylvania Rules of Civil Procedure.

Over 1,500 attorneys are registered for electronic filing with the Board, and approximately one third of those registered for electronic filing have actively used the electronic filing system since the Board launched its new website in July of 2024. Because electronic filing is mandatory in most instances, this provides a good estimate of the number of attorneys who will be affected by revisions to the Board's rules of procedure.

(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.

Same as answer to question 15. All parties listed in the response to question 15 will be required to comply with the Board's Rules of Practice and Procedure.

As explained in the response to question 15, this number cannot be quantified, but can only be estimated based on the number of appeals filed with the Board each year and the number of attorneys who are registered for electronic filing. That said, it must be emphasized that these rules, like many of the Board's rules, may only be relevant in individual cases. For example, the proposed amendment to the rule on amendments to appeal or complaint will only be relevant in cases in which a party files a motion for leave to amend their appeal or complaint. Generally, the Board receives around five motions for leave to amend in a given year. Therefore, those revisions will not affect the vast majority of cases filed with the Board.

Again, it should be emphasized that the revisions pertain to procedural rules; they do not cover substantive areas of law.

(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 amendments will have no measurable financial, economic or social impact on individuals, small businesses, businesses, labor communities or other public and private organizations. Rather, the amendments should make practice before the Board clearer and less costly by avoiding the need for litigation over the interpretation of the Board's rules.

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

There are no discernible costs or adverse effects associated with the proposed regulations. Therefore, the benefits of having clear Rules of Practice and Procedure would outweigh any perceived adverse effects.

(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.

There will be no costs to the regulated community. There may be some savings associated with the proposed revisions relating to updates in technology by allowing for electronic signatures and service by email insofar as less printed paper will be utilized, but these savings are impossible to quantify. There also may be savings associated with the proposed revision allowing hearings to be conducted via video conference or a combination of in person and video conference as it may eliminate the need for some parties to pay for their witnesses to appear in person. Again, these savings are impossible to quantify.

(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.

There will be no costs to the local governments. There may be some savings associated with the proposed revisions relating to updates in technology by allowing for electronic signatures and service by email insofar as less printed paper will be utilized, but these savings are impossible to quantify. There also may be savings associated with the proposed revision allowing hearings to be conducted via video conference or a combination of in person and video conference as it may eliminate the need for some parties to pay for their witnesses to appear in person. Again, these savings are impossible to quantify.

(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.

There will be no costs or savings to the state government.

(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.

(22a) Are forms required for implementation of the regulation?

No forms are required.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

(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.

	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 Operations	\$ 717,280.13	\$ 551,763.70	\$ 210,206.35	\$ 358,403.00

(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.

The proposed regulation will not have an adverse impact on small businesses.

(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.

None. The Board's Rules of Practice and Procedure are intended to be followed by all participants in hearings before the Board. The Board could discern no particular group that needs special rules.

(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.

There were no alternative regulatory provisions considered and rejected.

(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 performance 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 proposed regulations will not have an adverse impact on small businesses. Furthermore, 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.

Data was not the basis for this regulation.

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

A. The length of the public comment period:

30 days

B. The date or dates on which any public meetings or hearings will be held:

All Environmental Hearing Board Rules Committee meetings to discuss the amendment were open to the public. The meetings were held on November 10, 2022; January 12, 2023; March 9, 2023; May 11, 2023; September 14, 2023; January 11, 2024; March 14, 2024; May 2, 2024; September 19, 2024; November 13, 2024; February 20, 2025; May 15, 2025; September 10, 2025; and November 13, 2025. Additionally, the meeting of the Environmental Hearing Board Judges to vote on the amendment, held on March 13, 2026, was open to the public.

C. The expected date of delivery of the final-form regulation:

Spring 2027

D. The expected effective date of the final-form regulation:

Upon publication as a final form regulation in the Pa. Bulletin.

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

Upon publication as a final form regulation in the Pa. Bulletin.

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

Not applicable

(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 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.

CDL-1

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

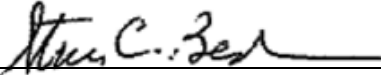
(Pursuant to Commonwealth Documents Law)

RECEIVED

Independent Regulatory
Review Commission

August 25, 2026

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General BY: <u></u> (DEPUTY ATTORNEY GENERAL) <u>July 23, 2026</u> 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: <u>Environmental Hearing Board</u> (AGENCY) DOCUMENT/FISCAL NOTE NO. <u>106-16</u> DATE OF ADOPTION: <u>March 13, 2026</u> BY: <u></u> TITLE: <u>Chief Judge and Chairperson</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)	Copy below is hereby approved as to form and legality. Executive or Independent Agencies. BY: <u></u> <u>July 7, 2026</u> DATE OF APPROVAL (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title) ☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.
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NOTICE OF PROPOSED REGULATION

COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

25 Pa. Code, Chapter 1021

RULES OF PRACTICE AND PROCEDURE – GENERAL UPDATE

TITLE 25 – ENVIRONMENTAL PROTECTION

ENVIRONMENTAL HEARING BOARD

[25 PA. CODE CH. 1021]

Practice and Procedure

The Environmental Hearing Board (board) proposes to revise Chapter 1021 (relating to practice and procedure) by amending its procedural rules to read as set forth in Annex A.

The proposed procedural rules have the following objectives:

- (1) To provide the regulated community, the Department of Environmental Protection (department) and persons challenging department actions with more specific guidance on how to represent their interests before the board.
- (2) To improve the rules of practice and procedure before the board.

The board considered the recommendations of the Rules Committee at its public meeting on March 13, 2026, and voted to adopt all of the recommendations as set forth in Section E below.

A. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Madison Hinkle, Assistant Counsel, Environmental Hearing Board, Suite 310, 301 Fifth Avenue, Pittsburgh, PA 15222, (412) 565-3608, madhinkle@pa.gov.

C. Statutory Authority

The board has the authority under section 5(c) of the Environmental Hearing Board Act (35 P.S. t § 7515(c)), to adopt regulations pertaining to practice and procedure before the board.

D. Background and Purpose

The purpose of the proposed revisions is to improve practice and procedure before the board. These proposed revisions are based on the recommendations of the Environmental Hearing Board Rules Committee, a nine-member advisory committee created by section 5(a) and (c) of the Environmental Hearing Board Act (35 P.S. § 7515(a) and (c)) to make recommendations to the board on its rules of practice and procedure. Under section 5(c), regulations “shall be promulgated by the board upon a majority affirmative vote on the recommended regulations.”

E. Summary of Proposed Regulations

1. § 1021.31. Signing.

The board proposes amendments to this section to allow for electronic signatures on electronic filings. This amendment reflects updates in technology and comports with what other courts and administrative tribunals are currently allowing.

2. § 1021.32. Filing.

This section is proposed to be amended to excuse pro se appellants from mandatory electronic filing requirements. While electronic filing is mandatory for attorneys unless excused by the board, it has been the board’s practice not to require mandatory electronic filing by pro se parties. However, pro se parties may register and file documents electronically if they choose to do so. Attorneys that wish to be excused from mandatory electronic filing requirements must still file a motion.

This section is also proposed to be amended to reflect the amendment to § 1021.31 (relating to signing) allowing for electronic signatures by removing the word “actual” before “signatures.”

3. *§ 1021.33. Service by the Board.*

§ 1021.34. Service by a party.

§ 1021.35. Date of service.

§ 1021.36. Email addresses.

The amendments allow for persons who have been excused from mandatory electronic filing requirements to be served by email, if they so consent, rather than by mail or in person, as use of email has become more prolific with many people. The title of § 1021.34 has also been amended to clarify that it refers only to service of documents filed with the board, as there are certain filings that are served by a party on another party without being filed with the board. The board also proposes to amend § 1021.36 to conform to the *Pennsylvania Code and Bulletin Style Manual* and to enhance gender neutrality.

4. *§ 1021.53. Amendments to appeal or complaint.*

This section is proposed to be amended to remove the requirement that parties wishing to amend their appeal or complaint verify and support their motion for leave to amend with affidavits. The section was previously amended in 2006 to revise the standard for seeking leave to amend an appeal. Under the pre-2006 version of the rule, a party had to show good cause, and specifically, instances of either fraud or breakdown in the court's operation, or a showing that the new grounds for appeal could not have been obtained except through discovery. See *Alice Water Protection Ass'n v. DEP*, 1996 EHB 983, 985.

A verification and affidavits were required to support those allegations. Under the current, post-2006 standard, which simply requires a party seeking leave to show no undue prejudice, there is no longer a need for verification or affidavits. See *Ullom v. DEP*, 2025 EHB 501; *Borough of St. Clair v. DEP*, 2013 EHB 171, 172.

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to reflect updates in technology and filing requirements with the Commonwealth Court, which now allows for electronic filing whereas it previously only allowed hard copy filing.

F. Benefits, Costs, Compliance and Paperwork

Benefits

The proposed amendments are likely to provide a benefit to parties appearing before the board because they will further clarify the board's rules of practice and procedure.

Costs

The proposed amendments will have no measurable fiscal impact on the Commonwealth, political subdivisions or the private sector.

Compliance

The proposed amendments will have no impact on compliance costs for parties participating in matters before the board.

Paperwork

The proposed revisions will require no additional paperwork.

H. Sunset Review

These regulations will be reviewed on an ongoing basis by the Environmental Hearing Board Rules Committee to determine whether the regulations effectively fulfill the goals for which they were intended. The Rules Committee meets six times a year in alternating months (January, March, May, July, September, November).

I. Public Meeting on Proposed Rules

In accordance with § 704 of the Sunshine Act (65 Pa.C.S. § 704), a quorum of the Judges of the Environmental Hearing Board voted to adopt the above-described proposed rules at a public meeting held on March 13, 2026, at 9:00 a.m. via videoconference.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 25, 2026, the board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

K. Public Comment Regarding Proposed Revisions

The board invites interested persons to submit written comments, suggestions or objections regarding the proposed revisions to Assistant Counsel Madison Hinkle at madhinkle@pa.gov or at the following address: Environmental Hearing Board, 2nd Floor, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, Attention: Madison Hinkle, within 30 days of the date of publication in the *Pennsylvania Bulletin*.

STEVEN C. BECKMAN

Chairperson and Chief Judge

ANNEX A
TITLE 25. ENVIRONMENTAL PROTECTION
PART IX. ENVIRONMENTAL HEARING BOARD
CHAPTER 1021. PRACTICE AND PROCEDURE

DOCUMENTARY FILINGS
FILING AND SERVICE OF DOCUMENTS

§ 1021.31. Signing.

(a) Every document directed to the Board and every discovery request or response of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name or, if a party is not represented by an attorney, shall be signed by the party. Each document must state the signer's mailing address, e-mail address and telephone number. **An electronic signature is permitted on electronic filings.**

§ 1021.32. Filing.

(c) *Electronic filing.*

(1) Documents except those listed in subsections (a) and (b) shall be electronically filed unless **otherwise ordered by** the Board [**orders otherwise in a particular proceeding**] **or where excused by these rules.** **Pro se parties are excused from the mandatory electronic filing requirement, but may register for electronic filing under paragraph (3) if they choose to do so.** [Persons] **Attorneys** wishing to be excused from the mandatory filing requirements shall file a motion under § 1021.92 (relating to procedural

motions). The Board will excuse **[persons]** attorneys from the mandatory electronic filing requirement, with respect to all filings or with respect to specific filings, if the Board determines that the requirement would impose an unreasonable burden on the potential filer.

(8) If an electronically filed document does not bear the **[actual]** signature of the registered user, the name of the registered user under whose log-in and password the document is submitted must be preceded by “s/” and typed in the space in the document’s signature block where the signature would otherwise appear (for example, “s/ Jane Doe”) **or the signature block may contain an electronic signature as defined in section 103 of the Electronic Transactions Act (73 P.S. § 2260.103).**

§ 1021.33. Service by the Board.

(b) The Board will serve documents it enters or issues upon registered users participating in the proceeding through the electronic filing provider, subject to the provisions in this chapter. The Board will serve persons who have been excused from electronic filing under § 1021.32(c)(1) (relating to filing) by mail or in person, **unless the person consents to service by email. Persons who consent to service by email shall maintain an active email address and properly update it in accordance with § 1021.36a (related to email addresses).**

§ 1021.34. Service [by a party] of documents filed with the Board.

(d) Documents filed electronically shall be served by hand, mail, other personal delivery or facsimile upon parties who have been excused from electronic filing under § 1021.32(c)(1) (relating to filing), **unless the party consents to service by email. Persons who consent to service by email shall maintain an active email address and properly update it in accordance with § 1021.36a (related to email addresses).**

§ 1021.35. Date of service.

(a) For electronic service, the date of service of a document is the date that the electronic filing provider transmits the notice of electronic filing. For other types of service, the date of service is the date the document served is mailed, **emailed**, delivered in person or transmitted to the party's facsimile line.

(b) For the sole purpose of computing the deadlines under this chapter for responding to documents:

(1) Documents served by electronic service shall be deemed served, for purposes of responding, when notice of the electronic filing is transmitted to registered users in the proceeding, provided the transmission is complete before 4:30 p.m. Eastern Time on a business day. Otherwise, documents served by electronic service shall be deemed served the next business day.

(2) Documents served by facsimile **or email** shall be deemed served, for purposes of responding, when transmission of the facsimile **or email** is complete, provided the

transmission is complete before 4:30 p.m. Eastern Time on a business day. Otherwise, documents served by facsimile **or email** shall be deemed served the next business day.

(3) Documents served by mail shall be deemed served 3 calendar days after the date of actual service.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.34 (relating to date of service).

§ 1021.36a. [E-mail] Email addresses.

A registered user shall maintain an active [e-mail] **email** address to receive electronic notice and electronic service from the electronic filing provider. A registered user has a duty to promptly update [his e-mail] **the user's email** account information with the electronic filing provider when there is a change in [e-mail] **email** address.

FORMAL PROCEEDINGS

APPEALS

§ 1021.53. Amendments to appeal or complaint.

(c) These motions shall be governed by the procedures in §§ 1021.91 and 1021.95 (relating to general; and miscellaneous motions) **[except that the motion shall be verified and supported by affidavits]**.

MOTIONS

§ 1021.94a. Summary judgment motions.

(i) *Evidentiary materials*. Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment or response **[must] shall** accompany the motion or response and be separately bound and labeled as exhibits. Affidavits **[must] shall** conform to Pa.R.C.P. 76 and 1035.4 (relating to definitions; and affidavits). **If the exhibits are filed as one document, the pages of the document shall be numbered and the document shall include a table of contents listing each exhibit.**

PREHEARING PROCEDURES AND PREHEARING CONFERENCES

§ 1021.101. Prehearing procedure.

(a) Upon the filing of an appeal, the Board will issue a prehearing order providing that:

(2) [The] **Discovery of facts known and opinions held by experts shall be governed by Pa.R.C.P. 4003.5(a)(1) (relating to discovery of expert testimony; trial preparation material), except that the** service of a report of an expert [together with] **including** a statement of qualifications may be substituted for **[an answer]answers** to expert interrogatories.

HEARINGS

§ 1021.114. Venue of hearings.

At the discretion of the Board **and after consultation with the parties**, hearings **[will] may** be held **in accordance with one of the following:**

(1) [at the] At a Commonwealth facility [nearest the location of the complaint sought to be remedied by the Department] with consideration for the convenience of witnesses, the public and the parties in attending the hearings.

(2) By videoconference.

(3) By a combination of in person and videoconference.

APPELLATE MATTERS

§ 1021.201. Composition of the certified record on appeal [to Commonwealth Court].

(a) [Unless] For appeals of Board adjudications or opinions and orders that rest with the Commonwealth Court, unless the parties file a stipulation with the Board or the Commonwealth Court requires otherwise, the Board shall certify the record in accordance with the applicable Pennsylvania Rules of Appellate Procedure. The record must consist of:

(1) A list of the docket entries.

(2) The notice of appeal and the Department action appealed to the Board, or, if the proceedings before the Board were initiated with a complaint, the complaint.

(d) The certified record compiled under subsections (a)–(c) will be submitted to the Commonwealth Court electronically, in hard copy or through a combination thereof. For [electronic filings] a hard copy submission, a paper copy of [the] any electronic filings [will] may be submitted to the Commonwealth Court as part of the certified record in accordance with this rule, notwithstanding the provisions of [§ 1021.39(c)] §§ 1021.32(c)(6) and 1021.39(c) (relating to filing; and docket) that the official copy of an electronically filed document shall be that appearing on the Board’s [web site] website.

(e) For appeals of Board adjudications or opinions and orders that rest with the United States Court of Appeals for the Third Circuit, the Board shall certify the administrative record in accordance with the applicable Federal Rules of Appellate Procedure.



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

August 25, 2026

David Sumner
Executive Director
Independent Regulatory Review Commn.
333 Market Street, 14th Floor
Harrisburg, PA 17101
Via electronic delivery

Re: Environmental Hearing Board Proposed Rulemaking 106-16

Dear Mr. Sumner:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed a copy of Environmental Hearing Board (Board) Proposed Rulemaking 106-16. This proposed rulemaking amends and clarifies the Board's Rules of Practice and Procedure. It was proposed and drafted by the Board's Rules Committee and adopted by the Board at its public meeting on March 13, 2026. The proposed rulemaking provides for a 30-day public comment period.

Should you have any questions please do not hesitate to contact me at madhinkle@pa.gov or 412-565-3608, or Maryanne Wesdock at mwesdock@pa.gov or 412-565-5245.

Sincerely,

s/ Madison Hinkle

Madison Hinkle
Assistant Counsel
Environmental Hearing Board

Re: EHB Rules Package 106-16

RECEIVED

From Eyster, Emily <Emily.Eyster@pasenate.com>

Date Tue 8/25/2026 9:26 AM

To Hinkle, Madison <madhinkle@pa.gov>

Independent Regulatory
Review Commission

August 25, 2026

Received. Thanks Madison!

Emily Eyster

Legislative Director, Office of Senator Carolyn T. Comitta

Executive Director, Senate Environmental Resources and Energy Committee

Cell: (717) 756-4702

Phone: (717) 787-5709

www.pasenatorcomitta.com

From: Hinkle, Madison <madhinkle@pa.gov>

Sent: Tuesday, 25 August 2026 09:23:51

To: Eyster, Emily <emily.eyster@pasenate.com>

Subject: EHB Rules Package 106-16

■ EXTERNAL EMAIL ■

Good morning,

I hope you are doing well. Please see the attached for the Environmental Hearing Board's Rules Package 106-16 (proposed rulemaking) Rules of Practice and Procedure — General Update.

If you could please provide a written (email) confirmation that the rulemaking has been received at your earliest convenience, I would greatly appreciate it.

Thank you very much,
Madison

Madison Hinkle (she/her) | Assistant Counsel

Environmental Hearing Board

Commonwealth of Pennsylvania

301 Fifth Avenue, Suite 310 | Pittsburgh, PA 15222

Phone: (412) 565-3608

madhinkle@pa.gov | ehb.pa.gov

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[External] RE: EHB Rules Package 106-16August 25, 2026

From Bulletin <bulletin@palrb.us>**Date** Tue 8/25/2026 9:56 AM**To** Hinkle, Madison <madhinkle@pa.gov>**Cc** Alyssa M. Burns <aburns@palrb.us>; Adeline E. Gaydosh <agaydosh@palrb.us>

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Hi Maddie,

Thanks for sending this proposed rulemaking. It has been scheduled for publication in the September 12th issue of the *Pennsylvania Bulletin*.

Have a great day!

Alyssa Burns | Legal Assistant

aburns@palrb.us | 717.783.1531

Legislative Reference Bureau

Pennsylvania Code & Bulletin Office

647 Main Capitol Building

Harrisburg, PA 17120

From: Hinkle, Madison <madhinkle@pa.gov>**Sent:** Tuesday, August 25, 2026 9:42 AM**To:** Bulletin <bulletin@palrb.us>**Subject:** EHB Rules Package 106-16**Importance:** High

Good morning,

I hope you are doing well. Please see the attached for the Environmental Hearing Board's Rules Package 106-16 (proposed rulemaking) Rules of Practice and Procedure — General Update. I have attached a pdf of the full package along with a word version of the preamble and annex.

If you could please provide a written (email) confirmation that the rulemaking has been received at your earliest convenience, I would greatly appreciate it.

Thank you very much,
Madison

Madison Hinkle (she/her) | Assistant Counsel
Environmental Hearing Board

Commonwealth of Pennsylvania
301 Fifth Avenue, Suite 310 | Pittsburgh, PA 15222
Phone: (412) 565-3608
madhinkle@pa.gov | ehb.pa.gov

RECEIVED

Independent Regulatory
Review Commission

August 25, 2026

RE: [EXTERNAL]: EHB Rules Package 106-16

RECEIVED

Independent Regulatory
Review Commission

From Marisa Thomas <Mthomas@pahousegop.com>

Date Tue 8/25/2026 9:51 AM

To Hinkle, Madison <madhinkle@pa.gov>

August 25, 2026

Received. Thank you.

Marisa Thomas
Administrative Assistant II

Office of State Representative Brenda Pugh
120th Legislative District
422 Irvis Office Building
Harrisburg, PA 17120-2092
Phone: (717) 787-3798

Office of State Representative Jack Rader
176th Legislative District
423 Irvis Office Building
Harrisburg, PA 17120-2176
Phone: (717) 787-7732

From: Hinkle, Madison <madhinkle@pa.gov>
Sent: Tuesday, August 25, 2026 9:24 AM
To: Marisa Thomas <Mthomas@pahousegop.com>
Subject: [EXTERNAL]: EHB Rules Package 106-16
Importance: High

Good morning,

I hope you are doing well. Please see the attached for the Environmental Hearing Board's Rules Package 106-16 (proposed rulemaking) Rules of Practice and Procedure — General Update.

If you could please provide a written (email) confirmation that the rulemaking has been received at your earliest convenience, I would greatly appreciate it.

Thank you very much,
Madison

Madison Hinkle (she/her) | Assistant Counsel
Environmental Hearing Board
Commonwealth of Pennsylvania
301 Fifth Avenue, Suite 310 | Pittsburgh, PA 15222

RE: EHB Rules Package 106-16August 25, 2026

From Franzese, Evan B. <EFranzese@pahouse.net>

Date Tue 8/25/2026 9:30 AM

To Hinkle, Madison <madhinkle@pa.gov>; Shupe, Hayley <HShupe@pahouse.net>

Cc McMenamin, Andrew W. <AMcMenamin@pahouse.net>

Hi Madison,

Received, thank you!

Evan Franzese-Peterson

Executive Director | House Environmental & Natural Resource Protection Committee (D)

Representative Greg Vitali

Pennsylvania House of Representatives

M: 223-797-7185

O: 717-783-2189

F: 717-780-4780

From: Hinkle, Madison <madhinkle@pa.gov>

Sent: Tuesday, August 25, 2026 9:24 AM

To: Shupe, Hayley <HShupe@pahouse.net>; Franzese, Evan B. <EFranzese@pahouse.net>

Cc: McMenamin, Andrew W. <AMcMenamin@pahouse.net>

Subject: EHB Rules Package 106-16

Importance: High

Good morning,

I hope you are doing well. Please see the attached for the Environmental Hearing Board's Rules Package 106-16 (proposed rulemaking) Rules of Practice and Procedure — General Update.

If you could please provide a written (email) confirmation that the rulemaking has been received at your earliest convenience, I would greatly appreciate it.

Thank you very much,
Madison

Madison Hinkle (she/her) | Assistant Counsel

Environmental Hearing Board

Commonwealth of Pennsylvania

301 Fifth Avenue, Suite 310 | Pittsburgh, PA 15222

Phone: (412) 565-3608

madhinkle@pa.gov | ehb.pa.gov

RE: EHB Rules Package 106-16August 25, 2026

From Osenbach, Matt <mosenbach@pasen.gov>

Date Tue 8/25/2026 9:28 AM

To Hinkle, Madison <madhinkle@pa.gov>; Troutman, Nick <ntroutman@pasen.gov>

Message received. Thanks Madison!!

Matt Osenbach

Director, Environmental Resources & Energy Committee

Office of State Senator Gene Yaw (R-23)

362 Main Capitol Building, Senate Box 203023

Harrisburg, PA 17120

T: (717) 787-3280

F: (717) 772-0575

www.SenatorGeneYaw.com

Sign up to receive Sen. Yaw's E-Newsletter [HERE](#).

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From: Hinkle, Madison <madhinkle@pa.gov>

Sent: Tuesday, August 25, 2026 9:24 AM

To: Osenbach, Matt <mosenbach@pasen.gov>; Troutman, Nick <ntroutman@pasen.gov>

Subject: EHB Rules Package 106-16

Importance: High

● CAUTION : External Email ●

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Good morning,

I hope you are doing well. Please see the attached for the Environmental Hearing Board's Rules Package 106-16 (proposed rulemaking) Rules of Practice and Procedure — General Update.

If you could please provide a written (email) confirmation that the rulemaking has been received at your earliest convenience, I would greatly appreciate it.

Thank you very much,
Madison

Madison Hinkle (she/her) | Assistant Counsel
Environmental Hearing Board
Commonwealth of Pennsylvania
301 Fifth Avenue, Suite 310 | Pittsburgh, PA 15222
Phone: (412) 565-3608
madhinkle@pa.gov | ehb.pa.gov

RECEIVED

Independent Regulatory
Review Commission

August 25, 2026