

ILLINOIS POLLUTION CONTROL BOARD

March 3, 2011

IN THE MATTER OF: )  
)  
AMENDMENTS TO THE BOARD'S ) R11-21  
ADMINISTRATIVE RULES ) (Rulemaking – Procedural)  
2 Ill. Adm. Code 2175 )

Adopted Rule. Final Notice.

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

Today the Board adopts amendments to its administrative rules at Part 2175 of Title 2 of the Illinois Administrative Code. The administrative rules, last amended in 2006, describe the Board's organization, the types of Board proceedings, how to pay filing and copying fees, and how the public may access information. The Board is amending these rules to update fees charged for copies provided to the public and to provide for responses to emergency shut-downs of Board offices, or facilities housing Board activities, as outlined below.

Public Act 96-542, effective January 1, 2010, sets forth the fees which may be charged by an agency when responding to a request for information under the Freedom of Information Act (FOIA) (5 ILCS 140/6 (2008)). Those fees are different from the fees provided for by the Board's administrative rules. Therefore, the Board will amend the administrative rules to reflect a fee structure consistent with the FOIA.

On February 1 and 2, 2011, Board offices in Springfield and Chicago were closed early and closed for the day by directive from the Governor due to extreme weather conditions in the State. The Board is amending the administrative rules to set forth the procedures the Board will follow if an emergency shut-down were to occur in the future.

**Order**

The Board directs the Clerk of the Board to file the following final rule amendments with the Secretary of State for publication in the *Illinois Register*.

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XXVIII: POLLUTION CONTROL BOARD

PART 2175  
ORGANIZATION, PUBLIC INFORMATION, AND TYPES OF PROCEEDINGS

SUBPART A: INTRODUCTION AND ORGANIZATION

Section	
2175.100	Summary and Purpose
2175.105	Board Membership
2175.110	Organization and Supervisory Relationships
2175.115	Location of Offices
2175.120	Board Meetings
2175.125	Public Notice of Open Board Meetings and Closed Deliberative Sessions
2175.130	Agenda of Open Board Meetings and Closed Deliberative Sessions
2175.135	Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed Deliberative Sessions
2175.140	Accessibility of Open Board Meetings and Hearings

#### SUBPART B: FEES AND FORMS OF PAYMENT

Section	
2175.200	Filing Fees
2175.205	Copying Fees
2175.210	Copying Procedures
2175.215	Forms of Payment
2175.220	Other Fees/Costs

#### SUBPART C: PUBLIC INFORMATION

Section	
2175.300	Files Open to Reasonable Public Inspection
2175.305	Publications
2175.310	Board Web Site
2175.315	Documents Available from the Clerk's Office
2175.320	Requests For Information

#### SUBPART D: ACCESS TO BOARD RULES

Section	
2175.400	Access to Board Rules in the Illinois Administrative Code

#### SUBPART E: RULEMAKING

Section	
2175.500	Proposals
2175.505	Hearing
2175.510	First Notice
2175.515	Second Notice
2175.520	Adopted Rules
2175.525	Emergency Rules
2175.530	Peremptory Rules
2175.535	Rules Identical-In-Substance to Federal Regulations
2175.540	Federally Required Rules
2175.545	Generally Applicable Rules and Site-Specific Rules

2175.550 Clean Air Act Fast-Track Rulemaking  
 2175.555 Updating Incorporations By Reference

#### SUBPART F: ADJUDICATORY PROCEEDINGS

Section  
 2175.600 Adjudicatory Proceedings

#### SUBPART G: EMERGENCY PROCEDURES

2175.700 Emergency Procedures

#### 2175.APPENDIX A: ORGANIZATIONAL CHART

**AUTHORITY:** Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5 of the Environmental Protection Act [415 ILCS 5/5].

**SOURCE:** Administrative rules adopted at 3 Ill. Reg. 23, p. 96, effective May 29, 1983; repealed by operation of law effective October 1, 1984; new rules adopted at 9 Ill. Reg. 107, effective December 21, 1984; Part repealed, new Part adopted at 20 Ill. Reg. 107, effective March 5, 1996; amended in R04-9 at 30 Ill. Reg. 14990, effective August 29, 2006; amended in R11-21 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 2175.205 Copying Fees

- a) Most files, records, and data are available on the Board's Web site (see Section 2175.310 of this Part), where they may be viewed, searched, and downloaded free of charge. Copies may also be made at the Board office in Chicago upon payment of reasonable reproduction fees as prescribed by Section 6 of the FOIA [5 ILCS 140/6]. When reasonably practicable, materials may be provided electronically in the form of compact disk, or other appropriate portable electronic storage device. The fee for such material will be based on actual costs incurred by the Board. follows:
- 1) ~~A hard copy of a single opinion and order will be furnished on request without cost, irrespective of length, with any dissenting and concurring opinions. Hard copies of multiple opinions and orders cost 75 cents per page.~~
  - 2) ~~Hard copies of hearing transcripts cost 75 cents per page.~~
  - 3) ~~Hard copies of all other documents cost 75 cents per page.~~
  - 4) ~~When reasonably practicable, materials may be provided electronically in the form of a diskette or compact disk. The fee for such material will be based on actual costs incurred by the Board.~~

- b) State agencies are, upon request, provided a hard copy of opinions and orders and transcripts free of charge.
- c) Fees will be waived or reduced if:
  - 1) The requestor is a constitutional officer or a member of the General Assembly; or
  - 2) *The requestor states the specific purpose for the request and indicates that a waiver of the fee is in the public interest. Waiver of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the purpose of personal or commercial benefit [5 ILCS 140/6(~~bc~~)].*
- d) No fee will be charged to inspect records. Inspection of records can only take place in Chicago at the Clerk's Office.

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

#### SUBPART G: EMERGENCY PROCEDURES

##### 2175.700 Emergency Procedures For Filings

In the event that an emergency, such as extreme weather conditions, public safety or other exigency, results in the Governor or other authority directing the closure of the Clerk's office on a day scheduled for regular business, the Board will implement the following procedures:

- a) All non-statutory filing deadlines will be automatically extended until the next business day.
- b) Statutory filing deadlines must be met by following the rules at 35 Ill. Adm. Code 101.Subpart C.
- c) When possible, the Board will place notices on the Board's website of the emergency closures.

##### Section 2175.710 Emergency Procedures For Hearings

In the event that an emergency, such as extreme weather conditions, public safety or other exigency, results in the Governor or other authority directing the closure of a facility where a Board hearing is scheduled for the day of the closure, the Board will implement the following procedures:

- a) Hearings scheduled for the day of the emergency closure, will be held on the next business day and may be continued on the record to a date certain, when schedules of the participants require such a continuance.
- b) When possible, the Board will place notices on the Board's website of the emergency closures and the date of the continued hearing.

(Source: Added at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 3, 2011, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board