

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Organization, Public Information, and Types of Proceedings
- 2) Code Citation: 2 Ill. Adm. Code 2175
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2175.110	Amendment
2175.120	Amendment
2175.125	Amendment
2175.305	Amendment
2175.315	Amendment
2175.320	Amendment
2175.535	Amendment
2175.APPENDIX A	Amendment
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28] and Section 5-15 of the Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Rule: November 24, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rule is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: Pursuant to Section 5-15 of the Administrative Procedure Act [5 ILCS 100/5-15] these rules were not published as a proposed rules in the Illinois Register.
- 10) Differences between Proposal and Final Version: None
- 11) Will this rulemaking replace any emergency rule currently in effect? No
- 12) Are there any rulemakings pending on this Part? No
- 13) Summary and Purpose of Rulemaking: The Board is amending its administrative rules, which 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

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amending these rules to update the public information provisions by removing the reference to a subscription for the *Environmental Register*, and updating provisions in response to amendments to the Freedom of Information Act (FOIA) (5 ILCS 140 (2012)). The Board is also updating the organizational provisions and organization chart in this rulemaking. Finally, the Board makes changes to reflect current Board practices in holding closed meetings.

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

Marie Tipsord
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R15-10 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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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 ~~For~~ Information

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SUBPART D: ACCESS TO BOARD RULES

Section
2175.400 Access to Board Rules in the Illinois Administrative Code

SUBPART E: RULEMAKING

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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~~ [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

Section
2175.700 Emergency Procedures For Filings
2175.710 Emergency Procedures For Hearings

2175.APPENDIX A: ~~ORGANIZATIONAL CHART~~ [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

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December 21, 1984; ~~old Part repealed, at 20 Ill. Reg. 4796 and~~ new Part adopted at 20 Ill. Reg. ~~107,4798~~, 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. 4549, effective March 4, 2011; amended in R15-10 at 38 Ill. Reg. ~~_____~~, 22834, effective ~~_____~~ November 24, 2014.

SUBPART A: INTRODUCTION AND ORGANIZATION

Section 2175.110 Organization and Supervisory Relationships

- a) Each member of the Board is aided by a confidential assistant who may be an attorney or who may have an advanced technical degree, and a personal secretary. The Chairman may have two confidential assistants and a personal secretary.
- b) To carry out its functions, the Board is comprised of the following offices and units: Clerk²'s Office, Legal Unit, Technical Unit, and Fiscal Unit. The function of each is as follows:
 - 1) Clerk²'s Office. This office is responsible for the processing, maintenance, and distribution of all regulatory and adjudicatory case-related materials of the Board. The Clerk²'s Office is located in Chicago.
 - 2) Legal Unit. This unit is responsible for general legal functions of the Board and case or rule-related legal responsibilities, as designated by the Chairman. Under the direction of the Senior Attorney, this unit ~~also~~ consists of attorneys responsible for conducting Board adjudicatory hearings throughout the State, making such rulings as may be necessary at hearing, and generally managing the Board²'s adjudicatory caseload.
 - 3) Technical Unit. This unit is comprised of engineering and environmental specialists responsible for gathering such technical and scientific data as may be required by the Board in the performance of its duties and for advising the Board on technical issues related to pending adjudicatory cases and rulemakings, as assigned by the Chairman.
 - 4) Fiscal Unit. Under the direction of a Fiscal Officer, this unit is responsible for budgeting, expenditures, procurement, computer operations, and related duties.

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- c) The Board may also employ other professional staff to carry out its functions and mandates, including an Executive Director, a General Counsel, ~~Coordinator~~, a Public Information Coordinator, a Human Resources Manager, an Information Systems Analyst, and a Rulemaking Coordinator.
- d) Organizational relationships are shown in the organizational chart in Appendix A at the end of this Part. Detailed descriptions of the specific responsibilities and duties of each of the job titles are maintained in the Board's Springfield or Chicago office.

(Source: Amended at 38 Ill. Reg. ~~_____~~, [22834](#), effective ~~_____~~ [November 24, 2014](#))

Section 2175.120 Board Meetings

- a) The Board makes all decisions on adjudicatory cases and regulatory matters at open meetings of the Board noticed and held in accordance with the Open Meetings Act [5 ILCS 120]. The Board may also hold meetings that are closed to the public pursuant to Section 2(c) of the Open Meetings Act [5 ILCS 120/2(c)], including closed deliberative sessions under Section 2(c)(4) of the Open Meetings Act [5 ILCS 120/2(c)(4)]. ~~The Board regularly holds closed deliberative sessions (see Sections 2175.125 and 2175.130 of this Part).~~
- b) Open Board meetings may be held when a quorum of Board members is present. *If there is no vacancy on the Board, four members of the Board constitute a quorum; otherwise, a majority of the Board constitutes a quorum, and no vacancy impairs the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board constitutes the action of the Board.* [415 ILCS 5/5(a)]~~—~~
- c) The Board may hold a closed meeting upon a majority vote of a quorum present taken at an open meeting for which notice has been given as required by the Open Meetings Act [5 ILCS 120/2a]. Closed meetings may be held when a majority of a quorum is present [5 ILCS 120/1.02].
- d) Board members may attend meetings in the following ways:
 - 1) Meetings, whether open or closed, may be held with Board members present physically or by videoconference. Closed meetings may also be

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held with Board members present telephonically.

- 2) If a quorum of Board members is present physically or by videoconference at an open meeting, a majority of the Board may allow a Board member to attend the meeting telephonically if the member cannot otherwise attend because of personal illness or disability, the business of the Board, or a family or other emergency. In such instances, the Board member who wishes to attend telephonically will notify the Clerk of the Board before the meeting unless advance notice is impractical.

- e) Section 5 of the Act requires the Board to hold at least one open meeting each month and allows the Board to hold special and emergency meetings [415 ILCS 5/5]. The Chairman or two Board members may call a special or emergency meeting of the Board that is open to the public.

(Source: Amended at 38 Ill. Reg. , [22834](#), effective [November 24, 2014](#))

Section 2175.125 Public Notice of Open Board Meetings and Closed Deliberative Sessions

- a) Public Notice of Regular Open Board Meetings and Closed Deliberative Sessions.
 - 1) The Board adopts annual schedules of open meetings ~~and closed deliberative sessions~~. Regular open Board meetings are generally held twice a month, usually every first and third Thursday of the month at the James R. Thompson Center (JRTC) in Chicago or at the Board's ~~Springfield office, but dates, times and locations are subject to change. Regular closed deliberative sessions are generally held twice a month, usually every second and fourth Thursday of the month at the JRTC in Chicago or at the Board's~~ Springfield office, but dates, times and locations are subject to change.

 - 2) Notification of regular open Board meetings is given in the Board's Environmental Register, a monthly publication available in hard copy and on the Board's Web site (see Section 2175.310 of this Part). Notification of all regular open Board meetings and closed deliberative sessions is also provided pursuant to Sections 2.02 and 2.03 of the Open Meetings Act [5 ILCS 120/2.02 and 2.03].

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- A) At least 48 hours before each regular open Board meeting and closed deliberative session, an agenda for the meeting or session is posted at the Board's Chicago office and at any other location where the meeting or session is to be held. Each such agenda is also posted on the Board's Web site and remains so posted at least until the regular meeting or session is concluded.
 - B) Notification of the annual schedule of regular open Board meetings ~~and closed deliberative sessions~~ is given at the beginning of each ~~fiscal~~ calendar year by posting a copy of the schedule at the Board's Chicago office. In addition, the annual schedule is posted on the Board's Web site and remains so posted at least until a new public notice of the schedule of regular meetings and sessions is approved. The schedule of regular open Board meetings also appears at the end of every regular open Board meeting agenda.
- b) Public Notice of Special or Emergency Meetings.
- 1) Whether a special or emergency meeting is an open Board meeting or a closed deliberative session, notice of a special or emergency meeting will generally be given to all Board members and the public at least 48 hours prior to the meeting. If, however, a majority of the Board certifies that an emergency exists and exigencies of time are such that the 48-hour notice must be dispensed with, notice to the public of an emergency meeting will be given as soon as is reasonably practicable, but prior to the holding of such meeting.
 - 2) Notice of a special or emergency meeting will include a copy of the meeting agenda and will be posted at the Board's Chicago office, at any other location where the meeting is to be held, and on the Board's Web site (see Section 2175.310 of this Part), pursuant to Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02].
 - 3) Notwithstanding subsections (b)(1) and (2) of this Section, at any open Board meeting for which notice has been given as required by the Open Meetings Act, the Board may, without additional notice under Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], hold a special or emergency closed deliberative session. Only topics specified in the vote to

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close the meeting may be considered during the closed deliberative session [5 ILCS 120/2a] (see Section 2175.120(c) of this Part).

- c) Notice to Media. The Board gives notice of regular, special, or emergency meetings, whether the meeting is an open Board meeting or a closed deliberative session, to any news medium that has filed an annual request for such notice under Section 2.02(b) of the Open Meetings Act [5 ILCS 120/2.02(b)].
- d) Videoconference and Teleconference. Whether the meeting is a regular, special, or emergency meeting, the Board may hold its open meetings and closed deliberative sessions by videoconference between Chicago and Springfield locations. Such open Board meetings may be attended by the public at both locations. A Board member may attend an open Board meeting telephonically only in accordance with Section 2175.120(d)(2) of this Part. The Board may hold its closed deliberative sessions by teleconference.

(Source: Amended at 38 Ill. Reg. ~~_____~~, [22834](#), effective ~~_____~~ [November 24, 2014](#))

SUBPART C: PUBLIC INFORMATION

Section 2175.305 Publications

- a) Environmental Register
 - 1) The Board's monthly publication, the Environmental Register, contains reports of the Board's activities and notices of meetings and hearings. Single hard copies are provided free of charge at the Board's Chicago and Springfield offices.
 - 2) ~~A yearly hard copy subscription may be purchased, at a cost of \$20 to defray reproduction and distribution charges, by contacting the Board's Chicago office. Government entities and not for profit organizations properly categorized as such under the Internal Revenue Code may request a free hard copy subscription to the Environmental Register. Proof of organizational status is required.3)~~ The Environmental Register is provided free of charge on the Board's Web site (see Section 2175.310 of this Part).

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- b) Opinions, Orders, Regulations
 - 1) Copies of opinions and orders of the Board are available as provided at Section 2175.205 of this Part, including through the Board's Web site (see Section 2175.310 of this Part).
 - 2) The Board's opinions and orders are also available through various commercial services including LEXIS and Westlaw.
 - ~~3)~~ 3) The Board's regulations are published in the Illinois Register (see Section 2175.305(d) of this Part) and by various commercial services. They are also published periodically by the Agency by subtitle and are available in hard copy as quantities permit free of charge from the Board's Chicago office. Additionally, the Board maintains on its Web site the text of the Board's regulations set forth in Title 35 of the Illinois Administrative Code.
- c) Annual Report
 - 1) The Board publishes an Annual Report of the Chairman. The report includes information regarding the Board's membership, regulatory and case activities for the fiscal year, a summary of legislative activity affecting the Board, a summary of Board decisions reviewed by the courts during the fiscal year, and information on administrative activities.
 - 2) When completed and printed, the Annual Report is available in hard copy free of charge in reasonable quantities from the Board's Chicago and Springfield offices. The Annual Report is also available free of charge from the Board's Web site (see Section 2175.310 of this Part).
- d) Illinois Register
 - 1) Required Filings. The Illinois Register is a publication containing all State regulations and is published by and available from the Office of the Secretary of State and various commercial services. The Board is required to publish the following information in the Illinois Register:
 - A) Notice of all proposed and adopted regulations as required by Section 5-40 of the IAPA [5 ILCS 100/5-40]. The notices describe

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the rules, contain contact names for questions, and provide directions for participation at public hearings and submission of written comments.

- B) Notice of all emergency and preemptory regulations as required by Sections 5-45 and 5-50 of the IAPA [5 ILCS 100/5-45 and 5/50]. The notices describe the rules and contain contact names for questions.
 - C) Results of Board determinations in adjusted standards proceedings pursuant to Section 28.1 of the Act [415 ILCS 5/28.1]. The Board publishes this list at the close of each fiscal year, in July or August depending upon the Illinois Register publication schedule.
 - D) A regulatory agenda setting forth rules that the Board may be considering during a six-month period. This agenda lists rules before publication of the notice described in subsection (d)(1) of this Section. The regulatory agenda appears in January/February or July/August of each year, depending upon the Illinois Register publication schedule. The agenda describes the anticipated rules, contains contact names for questions, and provides directions for public participation.
- 2) Discretionary filings. Section 7.3 of the Act [415 ILCS 5/7.3] and Section 5-70(b) of the IAPA [5 ILCS 100/5-70(b)] allow the Board to publish other documents concerning its activities. These include notices of public hearings, and notices of proposed and adopted identical-in-substance rules as discussed in Section 7.2 of the Act [415 ILCS 5/7.2].

(Source: Amended at 38 Ill. Reg. [_____](#), [22834](#), effective [_____](#) [November 24, 2014](#))

Section 2175.315 Documents Prepared by the Clerk's Office

Various documents are routinely prepared by and for the Clerk's Office for internal use by the Board and are also available for inspection and copying. ~~These include docket sheets, listings of adjudicatory cases and rulemakings by type and status sheets. Hard copies will be available within five working days of a request at a cost of \$5.00 per page.~~

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(Source: Amended at 38 Ill. Reg. _____, 22834, effective _____ November
24, 2014)

Section 2175.320 Requests for Information

- a) Informal requests for information may be made to any Board office. Informal requests will be filled promptly upon receipt of the request. However, where a request for information maintained by the Clerk's Office is made at a Board office other than the Chicago office, some delay may be necessary to allow for the Clerk's Office to provide the material. Inspection of documents can only take place at the Clerk's Office.
- b) FOIA Requests:
 - 1) A formal request for information pursuant to FOIA must state that it is a formal request pursuant to FOIA. The formal request must be addressed to the ~~Clerk of the Board~~ Board's FOI Officer, who: ~~will date stamp the request upon receipt. All formal requests will be processed pursuant to the timeframe requirements set forth in FOIA. FOIA requires an initial response to the request be made within seven working days of receipt of the formal request, subject to extension.~~ 's FOI Officer, who:
 - A) Notes the date the public body receives the written request;
 - B) Computes the day on which the period for response will expire and makes a notation of that date on the written request;
 - C) Maintains an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
 - D) Provides a copy to the Clerk's Office to create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.
 - 1) ~~Any person whose formal request is denied by the Clerk may appeal such denial by filing a written notice of appeal addressed to the Chairman of the Board. The notice of appeal must include a copy of the formal request, the~~

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~~Clerk's denial letter, and a statement of why the person believes the denial was improper. The Chairman will determine in writing whether the Clerk's denial was proper or improper, and will notify the person within seven working days after receipt of the notice.~~

- 2) The Board will either comply with or deny a request for public records within 5 business days after its receipt of the request, unless the time for response is properly extended under Section 3(e) of FOIA [5 ILCS 140/3(e)]. ~~If the Chairman affirms the denial or fails to take action within seven working days, the person may file suit in circuit court for injunctive or declaratory relief pursuant to Section 11 of FOIA [5 ILCS 140/11].~~
- 3) If denied, the requests will be denied pursuant to ~~Section~~[Sections](#) 7 and 7.5 of FOIA [5 ILCS 140/7 and 7.5]. Upon a decision to deny a request, the FOIA officer shall notify the requester in writing of the decision and provide:
 - A) The reasons for denial, including a detailed basis for the exemption claimed,
 - B) The names and titles or positions of each person responsible for the denial,
 - C) Information on the right to review by the Public Access Counselor, and include the address and phone number for the Public Access Counselor, and
 - D) Information on the right to judicial review.
- c) Information that is immediately available on request from the Clerk's ~~Office~~[Office](#) includes, but is not limited to:
 - 1) Board Meeting Agendas,
 - 2) Board Meeting Minutes,
 - 3) Board Opinions and Orders, and

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- 4) Filings in cases available in the Clerk's Office On-Line.

(Source: Amended at 38 Ill. Reg. ~~_____~~, 22834, effective November 24, 2014)

SUBPART E: RULEMAKING

Section 2175.535 Rules Identical-In-Substance to Federal Regulations

- a) The Board adopts regulations in the following programs pursuant to Section 7.2 of the Act [415 ILCS 5/7.2] that are identical-in-substance to federal regulations and which are exempt from Sections 5-35 and 5-40 of the IAPA [5 ILCS 100/5-35 and 5-40]:
- 1) Exemptions from the definition of volatile organic material: Section 9.1(e) of the Act [415 ILCS 5/9.1(e)];
 - 2) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere: Section 10(H) of the Act [415 ILCS 5/10(H)];
 - ~~233~~) Underground injection control (UIC): Section 13(c) of the Act [415 ILCS 5/13(c)];
 - ~~344~~) Wastewater pretreatment: Section 13.3 of the Act [415 ILCS 5/13.3];
 - ~~455~~) Safe Drinking Water Act (SDWA): Section 17.5 of the Act ([415 ILCS 5/17.5]);
 - ~~566~~) Resource Conservation and Recovery Act (RCRA), Subtitle C, hazardous waste: Section 22.4(a) of the Act [415 ILCS 5/22.4(a)];
 - ~~6-7~~) RCRA, Subtitle I, UST: Section 22.4(d) of the Act [415 ILCS ~~5/22.4(d)~~];
 - ~~788~~) RCRA, Subtitle D; municipal solid waste landfills: Section 22.40(a) of the Act [415 ILCS 5/~~22.4~~22.40(a)];

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- b) Section 7.2(b) of the Act [415 ILCS 5/~~7.2~~47.2(b)] provides timetables for rule adoption, but generally the Board must adopt rules within one year after the United States Environmental Protection Agency's (USEPA) adoption of the corresponding federal rule. The Board adopts a proposal for public comment that is published in the Illinois Register. The Board then accepts public comments for 45 days, after which the Board adopts final rules that are published in the Illinois Register.
- c) Because Sections 5-35 and 5-40 of the IAPA [5 ILCS 100/5-35 and 5-40] do not apply to identical-in-substance rulemaking under Section 7.2 of the Act [415 ILCS 5/7.2], the Board does not follow the IAPA's procedure of first notice, second notice, and final adoption.

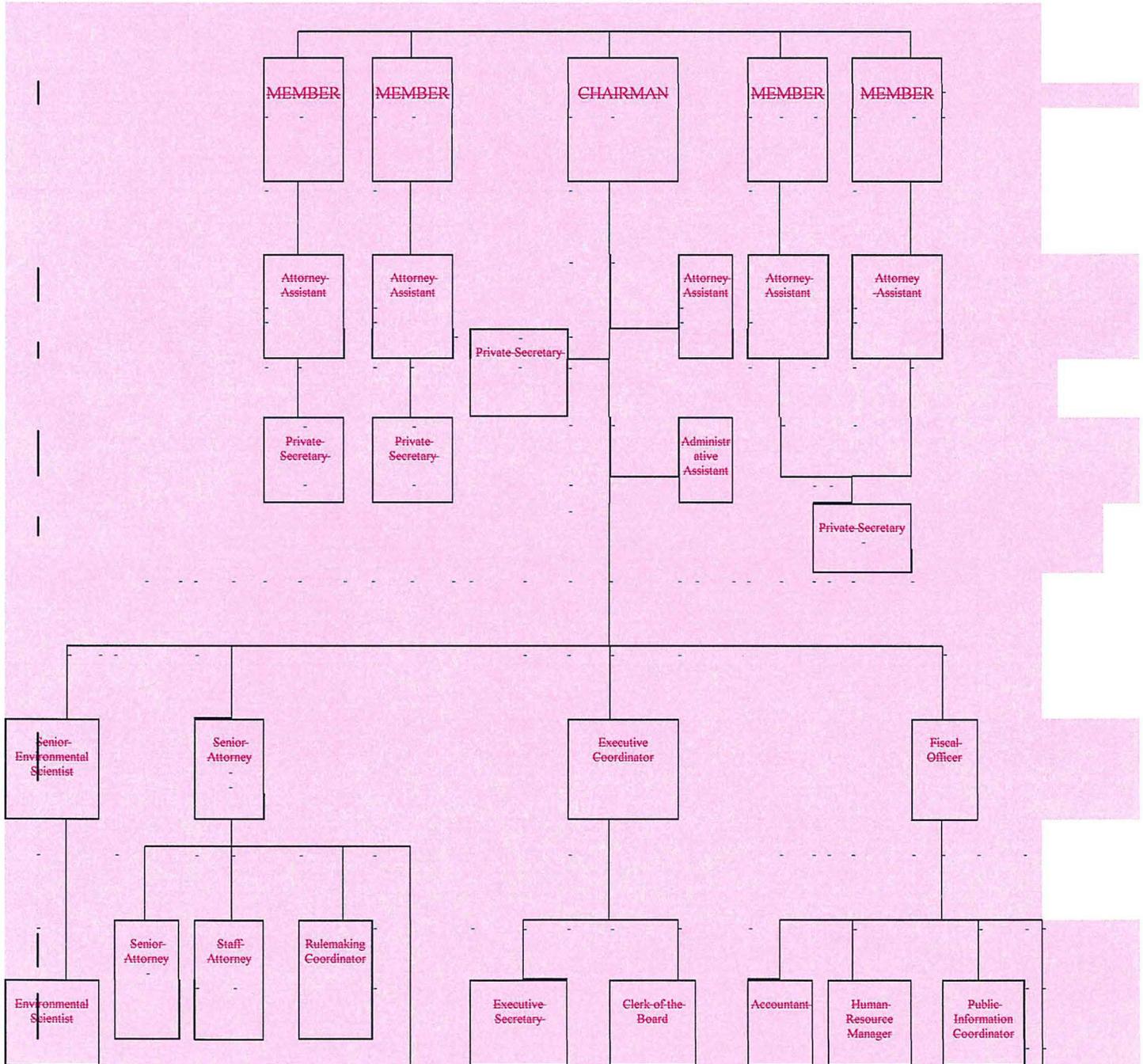
(Source: Amended at 38 Ill. Reg. ~~_____~~, 22834, effective ~~_____~~ November 24,
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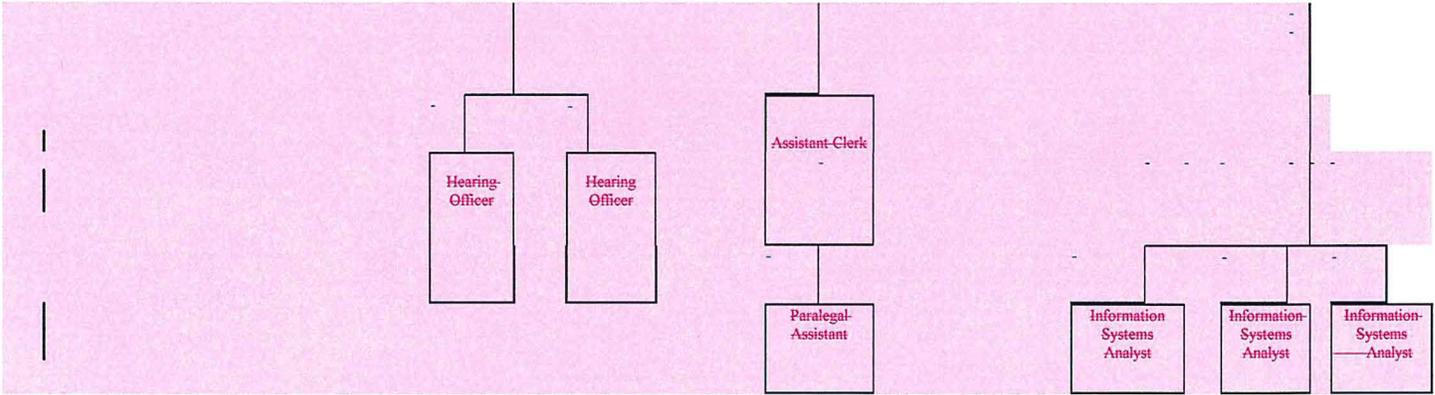
Section 2175. ~~Appendix~~ APPENDIX A Organizational Chart

ORGANIZATIONAL CHART



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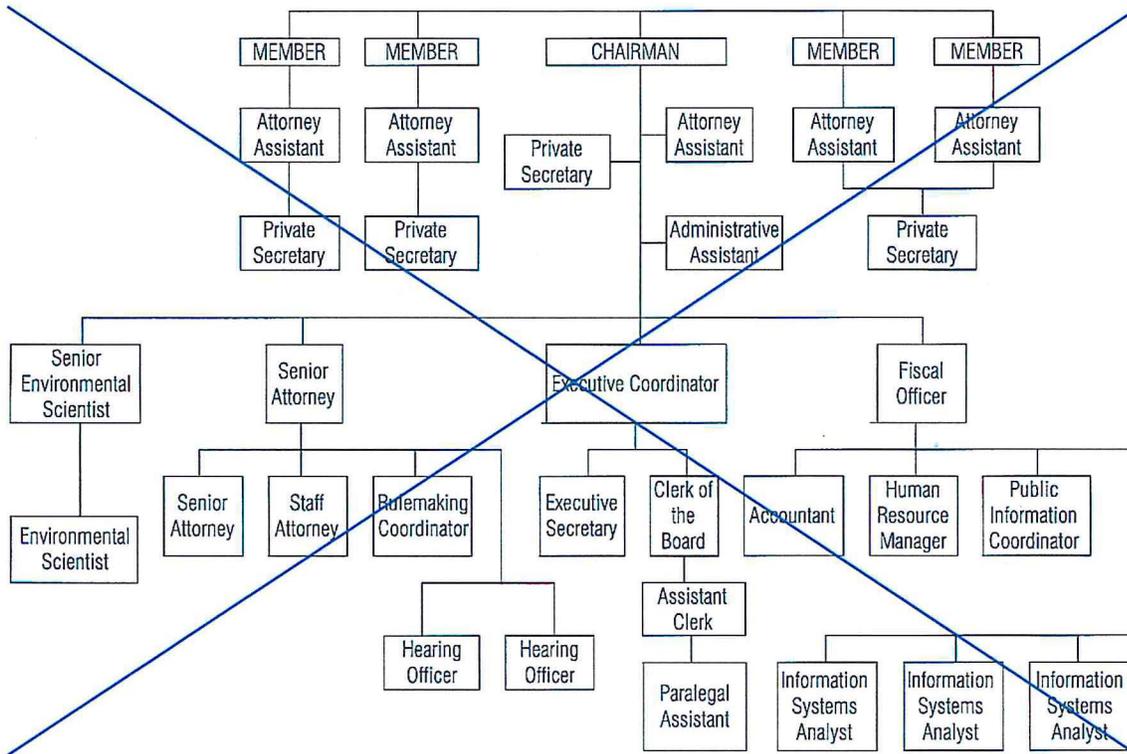


ORGANIZATIONAL CHART

<u>MEMBER</u>	<u>MEMBER</u>	<u>CHAIRMAN</u>	<u>MEMBER</u>	<u>MEMBER</u>
<u>Attorney Assistant</u>	<u>Attorney Assistant</u>	<u>General Counsel</u>	<u>Attorney Assistant</u>	<u>Attorney Assistant</u>
<u>Private Secretary I</u>	<u>Private Secretary I</u>	<u>Human Resource</u>	<u>Private Secretary I</u>	<u>Private Secretary I</u>
		<u>Admin Asst II</u>		
		<u>Executive Director</u>		
<u>Environmental Scientist II</u>	<u>Senior Attorney</u>	<u>Clerk of the Board</u>		<u>Chief Fiscal Officer</u>
<u>Environmental Scientist I</u>		<u>Assistant Clerk</u>		
		<u>Accountant</u>	<u>Public Info Coord.</u>	<u>Information Systems Analyst I</u>

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(Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)

Document comparison by Workshare Compare on Wednesday, November 26, 2014 11:55:39 AM

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Description	2-2175-JCARr01(issue49)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
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Padding cell	

Statistics:	
	Count
Insertions	70
Deletions	149
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	219

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2 SUBTITLE E: MISCELLANEOUS STATE AGENCIES
3 CHAPTER XXVIII: POLLUTION CONTROL BOARD
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5 PART 2175
6 ORGANIZATION, PUBLIC INFORMATION, AND TYPES OF PROCEEDINGS
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- 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

- Section
- 2175.700 Emergency Procedures For Filings
- 2175.710 Emergency Procedures For Hearings
- 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; old Part repealed at 20 Ill. Reg. 4796 and new Part adopted at 20 Ill. Reg. 4798, 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. 4549, effective March 4, 2011; amended in R15-10 at 38 Ill. Reg. 22834, effective November 24, 2014.

SUBPART A: INTRODUCTION AND ORGANIZATION

Section 2175.110 Organization and Supervisory Relationships

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- a) Each member of the Board is aided by a confidential assistant who may be an attorney or who may have an advanced technical degree, and a personal secretary. The Chairman may have two confidential assistants and a personal secretary.
 - b) To carry out its functions, the Board is comprised of the following offices and units: Clerk's Office, Legal Unit, Technical Unit, and Fiscal Unit. The function of each is as follows:
 - 1) Clerk's Office. This office is responsible for the processing, maintenance, and distribution of all regulatory and adjudicatory case related materials of the Board. The Clerk's Office is located in Chicago.
 - 2) Legal Unit. This unit is responsible for general legal functions of the Board and case or rule-related legal responsibilities, as designated by the Chairman. Under the direction of the Senior Attorney, this unit also consists of attorneys responsible for conducting Board adjudicatory hearings throughout the State, making such rulings as may be necessary at hearing, and generally managing the Board's adjudicatory caseload.
 - 3) Technical Unit. This unit is comprised of engineering and environmental specialists responsible for gathering such technical and scientific data as may be required by the Board in the performance of its duties and for advising the Board on technical issues related to pending adjudicatory cases and rulemakings, as assigned by the Chairman.
 - 4) Fiscal Unit. Under the direction of a Fiscal Officer, this unit is responsible for budgeting, expenditures, procurement, computer operations, and related duties.
 - c) The Board may also employ other professional staff to carry out its functions and mandates, including an Executive Director, a General Counsel, ~~Coordinator~~, a Public Information Coordinator, a Human Resources Manager, an Information Systems Analyst, and a Rulemaking Coordinator.
 - d) Organizational relationships are shown in the organizational chart in Appendix A at the end of this Part. Detailed descriptions of the specific responsibilities and duties of each of the job titles are maintained in the Board's Springfield or Chicago office.

127 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)

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- a) The Board makes all decisions on adjudicatory cases and regulatory matters at open meetings of the Board noticed and held in accordance with the Open Meetings Act [5 ILCS 120]. The Board may also hold meetings that are closed to the public pursuant to Section 2(c) of the Open Meetings Act [5 ILCS 120/2(c)], including closed deliberative sessions under Section 2(c)(4) of the Open Meetings Act [5 ILCS 120/2(c)(4)]. ~~The Board regularly holds closed deliberative sessions (see Sections 2175.125 and 2175.130 of this Part).~~
 - b) Open Board meetings may be held when a quorum of Board members is present. *If there is no vacancy on the Board, four members of the Board constitute a quorum; otherwise, a majority of the Board constitutes a quorum, and no vacancy impairs the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board constitutes the action of the Board.* [415 ILCS 5/5(a)].
 - c) The Board may hold a closed meeting upon a majority vote of a quorum present taken at an open meeting for which notice has been given as required by the Open Meetings Act [5 ILCS 120/2a]. Closed meetings may be held when a majority of a quorum is present [5 ILCS 120/1.02].
 - d) Board members may attend meetings in the following ways:
 - 1) Meetings, whether open or closed, may be held with Board members present physically or by videoconference. Closed meetings may also be held with Board members present telephonically.
 - 2) If a quorum of Board members is present physically or by videoconference at an open meeting, a majority of the Board may allow a Board member to attend the meeting telephonically if the member cannot otherwise attend because of personal illness or disability, the business of the Board, or a family or other emergency. In such instances, the Board member who wishes to attend telephonically will notify the Clerk of the Board before the meeting unless advance notice is impractical.
 - e) Section 5 of the Act requires the Board to hold at least one open meeting each month and allows the Board to hold special and emergency meetings [415 ILCS 5/5]. The Chairman or two Board members may call a special or emergency meeting of the Board that is open to the public.

170 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)

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- a) Public Notice of Regular Open Board Meetings and Closed Deliberative Sessions.
 - 1) ~~The Board adopts annual schedules of open meetings and closed deliberative sessions. Regular open Board meetings are generally held twice a month, usually every first and third Thursday of the month at the James R. Thompson Center (JRTC) in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change. Regular closed deliberative sessions are generally held twice a month, usually every second and fourth Thursday of the month at the JRTC in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change.~~

The Board adopts annual schedules of open meetings and closed deliberative sessions. Regular open Board meetings are generally held twice a month, usually every first and third Thursday of the month at the James R. Thompson Center (JRTC) in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change. Regular closed deliberative sessions are generally held twice a month, usually every second and fourth Thursday of the month at the JRTC in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change.
 - 2) Notification of regular open Board meetings is given in the Board's Environmental Register, a monthly publication available in hard copy and on the Board's Web site (see Section 2175.310 of this Part). Notification of all regular open Board meetings and closed deliberative sessions is also provided pursuant to Sections 2.02 and 2.03 of the Open Meetings Act [5 ILCS 120/2.02 and 2.03].
 - A) At least 48 hours before each regular open Board meeting and closed deliberative session, an agenda for the meeting or session is posted at the Board's Chicago office and at any other location where the meeting or session is to be held. Each such agenda is also posted on the Board's Web site and remains so posted at least until the regular meeting or session is concluded.
 - B) Notification of the annual schedule of regular open Board meetings ~~and closed deliberative sessions~~ is given at the beginning of each calendar fiscal year by posting a copy of the schedule at the Board's Chicago office. In addition, the annual schedule is posted on the Board's Web site and remains so posted at least until a new public notice of the schedule of regular meetings and sessions is approved. The schedule of regular open Board meetings also appears at the end of every regular open Board meeting agenda.
- b) Public Notice of Special or Emergency Meetings.
 - 1) Whether a special or emergency meeting is an open Board meeting or a closed deliberative session, notice of a special or emergency meeting will generally be given to all Board members and the public at least 48 hours prior to the meeting. If, however, a majority of the Board certifies that an emergency exists and exigencies of time are such that the 48-hour notice

216 must be dispensed with, notice to the public of an emergency meeting will
217 be given as soon as is reasonably practicable, but prior to the holding of
218 such meeting.
219

220 2) Notice of a special or emergency meeting will include a copy of the
221 meeting agenda and will be posted at the Board's Chicago office, at any
222 other location where the meeting is to be held, and on the Board's Web site
223 (see Section 2175.310 of this Part), pursuant to Section 2.02 of the Open
224 Meetings Act [5 ILCS 120/2.02].
225

226 3) Notwithstanding subsections (b)(1) and (2) of this Section, at any open
227 Board meeting for which notice has been given as required by the Open
228 Meetings Act, the Board may, without additional notice under Section
229 2.02 of the Open Meetings Act [5 ILCS 120/2.02], hold a special or
230 emergency closed deliberative session. Only topics specified in the vote
231 to close the meeting may be considered during the closed deliberative
232 session [5 ILCS 120/2a] (see Section 2175.120(c) of this Part).
233

234 c) Notice to Media. The Board gives notice of regular, special, or emergency
235 meetings, whether the meeting is an open Board meeting or a closed deliberative
236 session, to any news medium that has filed an annual request for such notice
237 under Section 2.02(b) of the Open Meetings Act [5 ILCS 120/2.02(b)].
238

239 d) Videoconference and Teleconference. Whether the meeting is a regular, special,
240 or emergency meeting, the Board may hold its open meetings and closed
241 deliberative sessions by videoconference between Chicago and Springfield
242 locations. Such open Board meetings may be attended by the public at both
243 locations. A Board member may attend an open Board meeting telephonically
244 only in accordance with Section 2175.120(d)(2) of this Part. The Board may hold
245 its closed deliberative sessions by teleconference.
246

247 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)
248

249 SUBPART C: PUBLIC INFORMATION

250 **Section 2175.305 Publications**

251 a) Environmental Register
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253 1) The Board's monthly publication, the Environmental Register, contains
254 reports of the Board's activities and notices of meetings and hearings.
255 Single hard copies are provided free of charge at the Board's Chicago and
256 Springfield offices.
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- 2) ~~A yearly hard copy subscription may be purchased, at a cost of \$20 to defray reproduction and distribution charges, by contacting the Board's Chicago office. Government entities and not for profit organizations properly categorized as such under the Internal Revenue Code may request a free hard copy subscription to the Environmental Register. Proof of organizational status is required.~~
 - 3) The Environmental Register is provided free of charge on the Board's Web site (see Section 2175.310 of this Part).
- b) Opinions, Orders, Regulations
- 1) Copies of opinions and orders of the Board are available as provided at Section 2175.205 of this Part, including through the Board's Web site (see Section 2175.310 of this Part).
 - 2) The Board's opinions and orders are also available through various commercial services including LEXIS and Westlaw.
 - 3) The Board's regulations are published in the Illinois Register (see Section 2175.305(d) of this Part) and by various commercial services. They are also published periodically by the Agency by subtitle and are available in hard copy as quantities permit free of charge from the Board's Chicago office. Additionally, the Board maintains on its Web site the text of the Board's regulations set forth in Title 35 of the Illinois Administrative Code.
- c) Annual Report
- 1) The Board publishes an Annual Report of the Chairman. The report includes information regarding the Board's membership, regulatory and case activities for the fiscal year, a summary of legislative activity affecting the Board, a summary of Board decisions reviewed by the courts during the fiscal year, and information on administrative activities.
 - 2) When completed and printed, the Annual Report is available in hard copy free of charge in reasonable quantities from the Board's Chicago and Springfield offices. The Annual Report is also available free of charge from the Board's Web site (see Section 2175.310 of this Part).
- d) Illinois Register

- 302 1) Required Filings. The Illinois Register is a publication containing all State
303 regulations and is published by and available from the Office of the
304 Secretary of State and various commercial services. The Board is required
305 to publish the following information in the Illinois Register:
306
- 307 A) Notice of all proposed and adopted regulations as required by
308 Section 5-40 of the IAPA [(5 ILCS 100/5-40)]. The notices
309 describe the rules, contain contact names for questions, and
310 provide directions for participation at public hearings and
311 submission of written comments.
312
 - 313 B) Notice of all emergency and peremptory regulations as required by
314 Sections 5-45 and 5-50 of the IAPA [(5 ILCS 100/5-45 and 5/50)].
315 The notices describe the rules and contain contact names for
316 questions.
317
 - 318 C) Results of Board determinations in adjusted standards proceedings
319 pursuant to Section 28.1 of the Act [(415 ILCS 5/28.1)]. The
320 Board publishes this list at the close of each fiscal year, in July or
321 August depending upon the Illinois Register publication schedule.
322
 - 323 D) A regulatory agenda setting forth rules that the Board may be
324 considering during a six-month period. This agenda lists rules
325 before publication of the notice described in subsection (d)(1) of
326 this Section. The regulatory agenda appears in January/February or
327 July/August of each year, depending upon the Illinois Register
328 publication schedule. The agenda describes the anticipated rules,
329 contains contact names for questions, and provides directions for
330 public participation.
331
- 332 2) Discretionary filings. Section 7.3 of the Act [(415 ILCS 5/7.3)] and
333 Section 5-70(b) of the IAPA [(5 ILCS 100/5-70(b))] allow the Board to
334 publish other documents concerning its activities. These include notices
335 of public hearings, and notices of proposed and adopted identical-in-
336 substance rules as discussed in Section 7.2 of the Act [(415 ILCS 5/7.2)].
337

338 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)
339

340 **Section 2175.315 Documents Prepared by the Clerk's Office**
341

342 Various documents are routinely prepared by and for the Clerk's Office for internal use by the
343 Board and are also available for inspection and copying. ~~These include docket sheets, listings of~~
344 ~~adjudicatory cases and rulemakings by type and status sheets. Hard copies will be available~~

345 within five working days of a request at a cost of \$5.00 per page.

346
347 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)

348
349 **Section 2175.320 Requests for Information**

350
351 a) Informal requests for information may be made to any Board office. Informal
352 requests will be filled promptly upon receipt of the request. However, where a
353 request for information maintained by the Clerk's Office is made at a Board office
354 other than the Chicago office, some delay may be necessary to allow for the
355 Clerk's Office to provide the material. Inspection of documents can only take
356 place at the Clerk's Office.

357
358 b) FOIA Requests:

359
360 1) A formal request for information pursuant to FOIA must state that it is a
361 formal request pursuant to FOIA. The formal request must be addressed
362 to the Board's FOI Officer~~Clerk of the Board, who will date-stamp the~~
363 ~~request upon receipt. All formal requests will be processed pursuant to the~~
364 ~~timeframe requirements set forth in FOIA. FOIA requires an initial~~
365 ~~response to the request be made within seven working days of receipt of~~
366 ~~the formal request, subject to extension.~~

367
368 A) Notes the date the public body receives the written request;

369
370 B) Computes the day on which the period for response will expire and
371 makes a notation of that date on the written request;

372
373 C) Maintains an electronic or paper copy of a written request,
374 including all documents submitted with the request until the
375 request has been complied with or denied; and

376
377 D) Provides a copy to the Clerk's Office to create a file for the
378 retention of the original request, a copy of the response, a record of
379 written communications with the requester, and a copy of other
380 communications.

381
382 1) ~~Any person whose formal request is denied by the Clerk may appeal such~~
383 ~~denial by filing a written notice of appeal addressed to the Chairman of the~~
384 ~~Board. The notice of appeal must include a copy of the formal request, the~~
385 ~~Clerk's denial letter, and a statement of why the person believes the denial~~
386 ~~was improper. The Chairman will determine in writing whether the~~
387 ~~Clerk's denial was proper or improper, and will notify the person within~~

388 ~~seven working days after receipt of the notice.~~

389
390 2) The Board will either comply with or deny a request for public records
391 within 5 business days after its receipt of the request, unless the time for
392 response is properly extended under Section 3(e) of FOIA [5 ILCS
393 140/3(e)]. If the Chairman affirms the denial or fails to take action within
394 seven working days, the person may file suit in circuit court for injunctive
395 or declaratory relief pursuant to Section 11 of FOIA (5 ILCS 140/11).

396
397 3) If denied, the requests will be denied pursuant to Sections 7 and 7.5 of
398 FOIA [5 ILCS 140/7 and 7.5]. Upon a decision to deny a request, the
399 FOIA officer shall notify the requester in writing of the decision and
400 provide:

401
402 A) The reasons for denial, including a detailed basis for the exemption
403 claimed,

404
405 B) The names and titles or positions of each person responsible for the
406 denial,

407
408 C) Information on the right to review by the Public Access Counselor,
409 and include the address and phone number for the Public Access
410 Counselor, and

411
412 D) Information on the right to judicial review.

413
414 c) Information that is immediately available on request from the Clerk's Office
415 includes, but is not limited to:

416
417 1) Board Meeting Agendas,

418
419 2) Board Meeting Minutes,

420
421 3) Board Opinions and Orders, and

422
423 4) Filings in cases available in the Clerk's Office On-Line.

424
425 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)

426
427 SUBPART E: RULEMAKING

428
429 **Section 2175.535 Rules Identical-In-Substance to Federal Regulations**

430

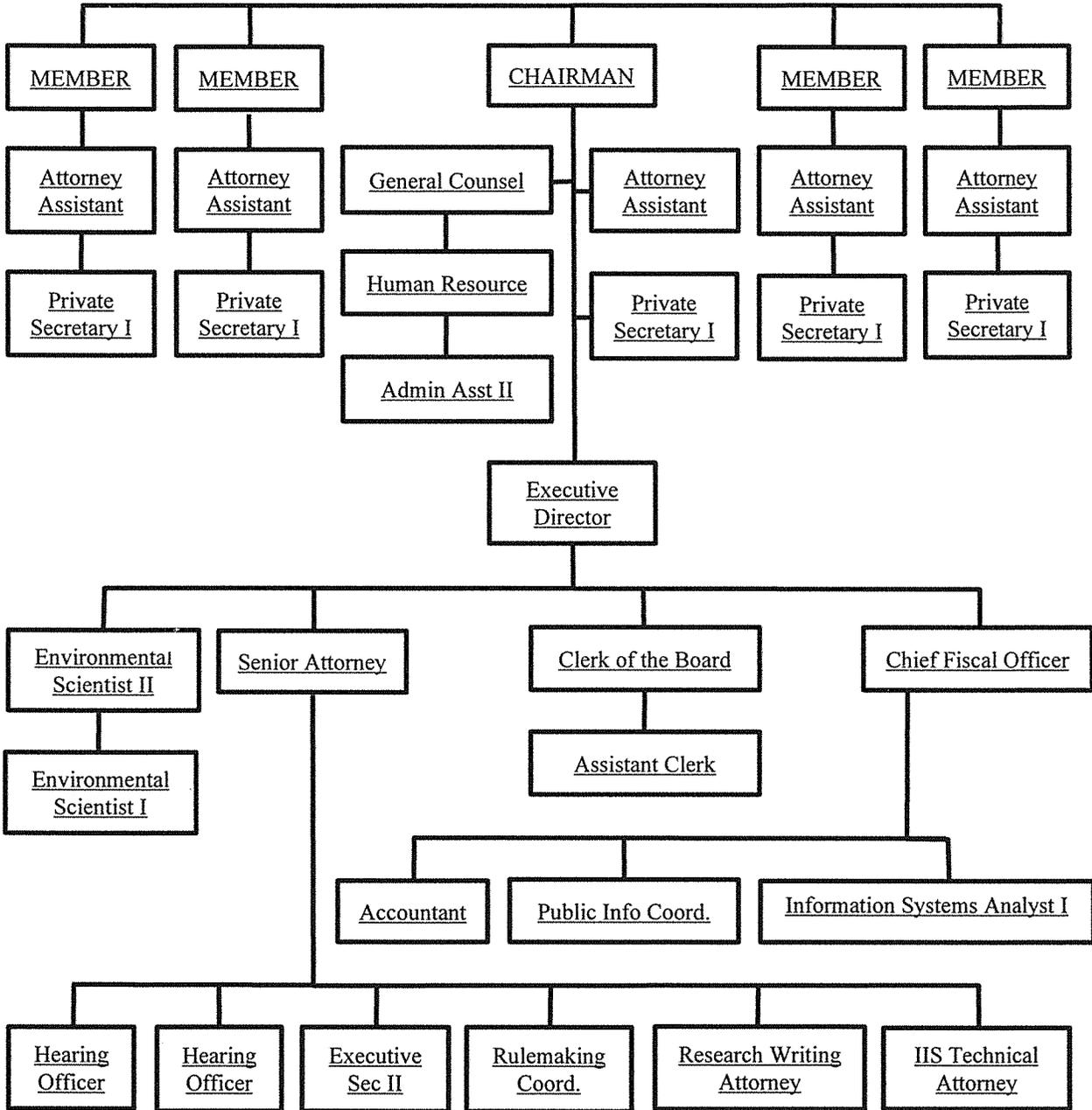
- 431 a) The Board adopts regulations in the following programs pursuant to Section 7.2
 432 of the Act [(415 ILCS 5/7.2)] that are identical-in-substance to federal regulations
 433 and which are exempt from Sections 5-35 and 5-40 of the IAPA [(5 ILCS 100/5-
 434 35 and 5-40)]:
 435
 436 1) Exemptions from the definition of volatile organic material: Section
 437 9.1(e) of the Act [(415 ILCS 5/9.1(e)];
- 438
 439 2) Ambient air quality standards specifying the maximum permissible short-
 440 term and long-term concentrations of various contaminants in the
 441 atmosphere: Section 10(H) of the Act [415 ILCS 5/10(H)];
 442
- 443 32) Underground injection control (UIC): Section 13(c) of the Act [(415
 444 ILCS 5/13(c)];
- 445
 446 43) Wastewater pretreatment: Section 13.3 of the Act [(415 ILCS 5/13.3)];
- 447
 448 54) Safe Drinking Water Act (SDWA): Section 17.5 of the Act [(415 ILCS
 449 5/17.5)];
- 450
 451 65) Resource Conservation and Recovery Act (RCRA), Subtitle C, hazardous
 452 waste: Section 22.4(a) of the Act [(415 ILCS 5/22.4(a)];
- 453
 454 76) RCRA, Subtitle I, UST: Section 22.4(d) of the Act [(415 ILCS 22.4(d)];
- 455
 456 87) RCRA, Subtitle D municipal solid waste landfills: Section 22.40(a) of the
 457 Act [(415 ILCS 5/22.40(a))].
 458
- 459 b) Section 7.2(b) of the Act [(415 ILCS 5/7.2(b))] provides timetables for rule
 460 adoption, but generally the Board must adopt rules within one year after the
 461 United States Environmental Protection Agency's (USEPA) adoption of the
 462 corresponding federal rule. The Board adopts a proposal for public comment that
 463 is published in the Illinois Register. The Board then accepts public comments for
 464 45 days, after which the Board adopts final rules that are published in the Illinois
 465 Register.
 466
- 467 c) Because Sections 5-35 and 5-40 of the IAPA [(5 ILCS 100/5-35 and 5-40)] do not
 468 apply to identical-in-substance rulemaking under Section 7.2 of the Act [(415
 469 ILCS 5/7.2)], the Board does not follow the IAPA's procedure of first notice,
 470 second notice, and final adoption.
 471

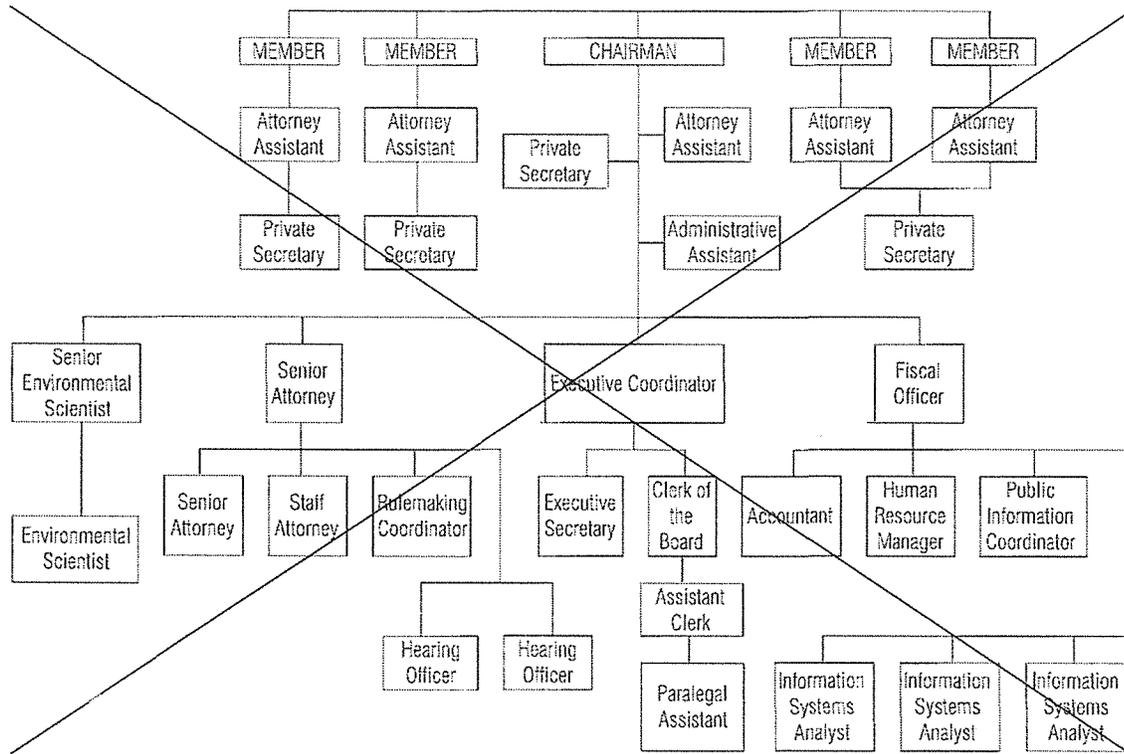
472 (Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)
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474 Section 2175.APPENDIX A Organizational Chart

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ORGANIZATIONAL CHART





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(Source: Amended at 38 Ill. Reg. 22834, effective November 24, 2014)