

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) Section Numbers: Adopted Action:

2175.100	Amend
2175.105	Amend
2175.110	Amend
2175.115	Amend
2175.120	Amend
2175.125	Amend
2175.130	Amend
2175.135	Amend
2175.140	Amend
2175.200	Amend
2175.205	Amend
2175.210	Amend
2175.215	Amend
2175.220	Amend
2175.300	Amend
2175.305	Amend
2175.310	Amend
2175.315	Amend
2175.320	Amend
2175.400	Amend
2175.500	Amend
2175.505	Amend
2175.510	Amend
2175.515	Amend
2175.520	Amend
2175.525	Amend
2175.530	Amend
2175.535	Amend
2175.540	New Section
2175.545	New Section
2175.550	New Section
2175.555	New Section
2175.600	Amend
2175.APPENDIX A	Amend

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STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) Statutory 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].
- 5) Effective Date of Amendments: August 29, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: This rulemaking is adopted in accordance with procedures for required rulemaking under Section 5-15 of the Illinois Administrative Procedure Act. Therefore, publication of a notice of proposed rulemaking was not required.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Pursuant to Section 5-15 of the Illinois Administrative Procedure Act, this rulemaking is being adopted without publication of a notice proposed rulemaking, or JCAR second notice review.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A more complete description of these adopted amendments may be found in the Board's opinion and order of July 20, 2006, in docket R04-9. The Board is updating its Part 2175 rules. The amendments encompass three different topics: (1) statutory changes affecting the Board; (2) Board procedural rule changes; and (3) various developments at the Board, such as the public availability of Clerk's Office online (COOL) as an "electronic file cabinet" on the Board's Web site.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Statutory changes. Recent amendments to the Environmental Protection Act (Act) [415 ILCS 5 (2004)] and the Open Meetings Act [5 ILCS 120 (2004)] have impacted the Board. For example, Public Act 93-509 (eff. Aug. 11, 2003) amended the Act, reducing the number of Board Members from seven to five. This, in turn, lowered the number of affirmative votes needed for Board action from four to three. These statutory changes are reflected in the amendments at Sections 2175.105(b) (Board membership) and 2175.120(b) (approval of majority of members required for Board decisions). Public Act 93-523 (eff. Jan. 1, 2004) amended the Open Meetings Act to require that public bodies keep a “verbatim record of all their closed meetings in the form of an audio or video recording.” The Board complied with this new requirement by audio-taping its closed deliberative sessions, held pursuant to Section 2(c)(4) of the Open Meetings Act [5 ILCS 120/2(c)(4) (2004)]. Verbatim recording is now covered in Section 2175.135 of the Board’s administrative rules. Other new provisions of the Open Meetings Act, brought about by Public Act 94-28 (eff. Jan. 1, 2006), impose Web site posting requirements on certain public bodies. Under Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], a public body with a Web site maintained by a full-time staff must post its regular meeting agendas and annual meeting schedule on its Web site. Under Section 2.06(b) of the Open Meetings Act [5 ILCS 120/2.06(b)], such a public body must also post the regular open meeting minutes of the public body on the Web site within seven days after approving the minutes. The Board has full-time staff dedicated to its Web site maintenance, and has made changes to address the new Web site posting requirements in Sections 2175.125, 2175.130, and 2175.135 of this Part.

Procedural Rule Changes. The Board adopted an entirely new set of procedural rules in 2000, repealing its then-current procedural rules and replacing them and all Board procedural resolutions. See Revision of the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130, R00-20 (Dec. 21, 2000). The new procedural rules took effect January 1, 2001. The adopted amendments update the cross-references to the new procedural rules in the administrative rules. The Board also added to the administrative rules descriptions of various Board proceedings that had been lacking, such as of Clean Air Act “Fast-Track” rulemaking. See, e.g., Sections 2175.550, 2175.555, and 2175.600.

New Developments. Finally, the Board has made various changes to the administrative rules to reflect changes to COOL, the Board’s electronic docketing system for rulemakings and adjudicatory cases, and to update the addresses of the Board offices.

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

Richard McGill
Illinois Pollution Control Board

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

100 W. Randolph, Suite 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinion and order 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 R04-9 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:

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 ~~Regular~~ 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

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- 2175.200 Filing Fees
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Section

- 2175.300 Files Open to Reasonable Public Inspection
- 2175.305 Publications
- 2175.310 Board's ~~Home Page on World Wide Web Internet Board~~ Web Site
- 2175.315 Documents Available from the Clerk's Office
- 2175.320 Requests ~~For~~ Information

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- 2175.400 Access to Board Rules in the Illinois Administrative Code

SUBPART E: RULEMAKING

Section

- 2175.500 Proposals
- 2175.505 ~~Initial~~ 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 ~~Adoption of~~ Federal Regulations
- 2175.540 Federally Required Rules

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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

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 ~~Illinois~~ 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, ~~new Part adopted~~ at 20 Ill. Reg. ~~107,4796~~ and ~~new Part adopted at 20 Ill. Reg. 4798,~~ effective March 5, 1996; amended in R04-9 at 30 Ill. Reg. ~~_____~~, Reg. 14990, effective ~~_____~~ August 29, 2006.

SUBPART A: INTRODUCTION AND ORGANIZATION

Section 2175.100 Summary and ~~&~~ Purpose

As required by Section 5-15 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-15] and Section 140/4 of the Freedom of Information Act (FOIA) [5 ILCS 140/4], this Part sets forth the administrative rules that ~~which~~ apply to the Illinois Pollution Control Board (Board). These rules are intended to generally explain what the Board is, how the Board is organized and operates, and how the public can get information from the Board. These rules do not explain, and are not intended to explain, the Board's procedural requirements for processing rulemakings and adjudicatory cases. Those procedural rules are found at 35 Ill. Adm. Code 101-~~120130-130~~. If there is a conflict between the Board's procedural rules (35 Ill. Adm. Code 101-130) and this Part, the procedural rules will control.

(Source: Amended at 30 Ill. Reg. ~~_____~~, 14990, effective ~~_____~~ August 29, 2006)

Section 2175.105 Board Membership

- a) The Board was created pursuant to Section 5 of the ~~Illinois~~ Environmental Protection Act (Act) [415 ILCS 5/5]. The Board is a quasi-legislative and quasi-judicial administrative agency responsible for adopting environmental regulations and deciding certain environmental disputes and cases brought pursuant to the ~~Illinois Environmental Protection Act~~. The Board determines, defines, and implements environmental control standards in accordance with the ~~Illinois Environmental Protection Act~~.
- b) The Board is comprised of ~~five~~ seven technically qualified members. The members are appointed by the Governor with the advice and consent of the Senate, for a term of three years.

c) The Governor designates one member to serve as Chairman. The Chairman serves at the pleasure of the Governor and is responsible for the administration of the Board.

d) Pursuant to Section 3.1 of the Executive Reorganization Implementation Act [15 ILCS 15/3.1], the Board is an agency of State government that is created by law with the primary responsibility of exercising regulatory or adjudicatory functions independently of the Governor. As such, the Board is excluded from the term "Agency directly responsible to the Governor" or "agency" as defined in the Executive Reorganization Implementation Act [15 ILCS 15/3.1].

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

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) ~~In order to~~To carry out its functions, the Board is comprised of the following offices and units: Clerk's Office, Legal Unit, ~~Hearings~~ Unit, Technical Unit, and Fiscal Unit. The function of each is as follows:

1) Clerk's Office. This ~~Office~~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 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) HearingHearings Unit. Under the direction of a Chief Hearing Officer, this unit is comprised of attorneys responsible for conducting Board hearings throughout the State, making such rulings as may be necessary at hearing, and generally managing the Board's adjudicatory caseload.~~

~~454)~~ 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 ~~employe~~ other professional staff to carry out its functions and mandates, including ~~but not limited to~~ an Executive Coordinator, a Public Information ~~Affairs~~ Coordinator, a Human Resources ~~Manager~~Services Coordinator, and a ~~Legislative and Governmental Affairs~~

~~Coordinator~~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 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.115 Location of Offices

a) The Board maintains two central offices, one in Chicago and one in Springfield. ~~The Board may also maintain satellite offices in various regions of the State.~~

b) The Clerk's Office is located in the Chicago ~~Office~~office. The address and general telephone number of the Chicago office is:

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, Illinois 60601
(312)- 814-3620
(312) 814-3669 (Fax)

c) ~~The Office of the Chairman, the Fiscal unit, and the Legislative/Government Affairs Coordinator are located in the Springfield office.~~ The address and general telephone number of the Springfield office is:

Illinois Pollution Control Board
1021 North Grand Ave. East
Springfield, Illinois 62706
~~600 South Second Street~~
~~Suite 402~~
~~Springfield, Illinois 62702 62704~~ (217)- 524-8500
(217) 524-8508 (Fax)

d) ~~The Board maintains satellite offices in the following locations:~~

~~Illinois Pollution Control Board
110 South State Street
Jerseyville, Illinois 62052
(618) 498-9802
(618) 498-5934 (Fax)~~

~~Illinois Pollution Control Board
148 North Third Street
P.O. Box 505~~

DeKalb, Illinois 60115
~~(815) 753-1904~~
~~(815) 753-1970 (Fax)~~

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August
29, 2006)

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 120/1 ~~et seq~~]. The Board may also hold meetings that are closed to the public ~~meetings~~ pursuant to Section 2(c) ~~120/2(a)~~ of the Open Meetings Act [5 ILCS 120/2(c) ~~(a)~~], 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~~ meetings may be held when a quorum of Board members, ~~constituted by four members of the Board,~~ 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)] ~~Four affirmative votes are required for any final determinations of the Board, except in a proceeding to remove a seal under Section 34(d) of the Illinois Environmental Protection Act [415 ILCS 5/34(d)].~~

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]~~.

~~ded)~~ Board members may attend meetings in the following ways:

1) Meetings, whether open or closed, may be held with Board members ~~physically present~~ physically or by videoconference. Closed meetings may also be held with Board members ~~or~~ 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.

~~edg)~~ Section 5 of the ~~Illinois Environmental Protection 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~~ members may call a special or emergency meeting of the Board that is open to the public.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August
29, 2006)

Section 2175.125 Public Notice of ~~Regular~~ 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) ~~(JTRC)~~ 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 ~~these~~ 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 ~~Home Page~~ (see Section 2175.310 of this Part). Notification of all regular open Board meetings and closed deliberative sessions is also provided ~~posted~~ 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 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) Teleconferencing. The Board attempts to hold one meeting every quarter via teleconferencing equipment, with hook ups in, at least, Chicago and Springfield. Both locations are open to the public. be)~~ 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 ~~Notice~~ of a special or emergency meeting ~~meetings~~ will generally be given to all Board members and the public at least 48 hours prior to the meeting. ~~The notice will include a copy of the agenda and will comply with the Open Meetings Act.~~ 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, ~~a special meeting may be called by the Chairman or two Board Members merely by posting notice in the Board's offices and giving notice to the public of an emergency meeting will be given as soon as is reasonably far in advance as is 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 close the meeting may be considered during the closed deliberative session ~~+[5 ILCS 120/2a]~~ (see Section 2175.120(c) of this Part).

~~edc~~) 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 ~~which~~ 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 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.130 Agenda of Open Board Meetings and Closed Deliberative Sessions

a) The Board maintains an agenda for each of its open Board meetings and closed deliberative sessions in accordance with Section 2.02 of the Open Meetings Act ~~+[5 ILCS 120/2.02]~~. Open Board meeting agendas contain the list of rulemakings, adjudicatory cases, and motions that may be decided by the Board at that meeting. Closed deliberative session agendas contain the list of rulemakings, adjudicatory cases, and motions on which the Board may deliberate at that session. Agendas ~~and~~ are posted at the Board's Chicago ~~offices~~ office, at any other location where the meeting or session is to be held, and on the Board's ~~Home Page~~ Web site (see Section 2175.310 of this Part).

b) The Board does not generally place any item on ~~the~~ an open Board meeting agenda that has been filed less than two full days before the ~~a scheduled Board~~ meeting.

c) The Board may also issue an addendum to the agenda of an open Board meeting or closed deliberative session and, as provided for in Section 2.02(a) of the Open Meetings Act [5 ILCS 120/2.02(a)], may consider items not specifically set forth on the agenda.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.135 Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed Deliberative Sessions

a) The Board will keep minutes of all open Board meetings in accordance with Section 2.06(a) of the Open Meetings Act ~~+[5 ILCS 120/2.06(a)]~~. Minutes of all

such meetings ~~subject to the Open Meetings Act will shall~~ be available to the public at the Clerk's Office and ~~or on the Board's Home Page~~ Web site (see Section 2175.310 of this Part~~02~~) within seven days of approval of the minutes. The minutes will remain posted on the Board's Web site for at least 60 days after their initial posting ~~{[5 ILCS 120/2.06(b)]}~~. The minutes will include the time, date, and place of the meeting, the items decided and the numeric decision vote, the Board members recorded as present or absent, and whether the members were present physically, by videoconference, or telephonically.

b) The Board will keep minutes of all its closed deliberative sessions in accordance with Section 2.06(a) of the Open Meetings Act ~~{[5 ILCS 120/2.06(a)]}~~. Minutes of all such sessions will be available to the public only as provided in ~~Sections~~Section 2.06(d) and (f) of the Open Meetings Act ~~{[5 ILCS 120/2.06(d) and (f)]}~~. The minutes will include the time, date, and place of the session, the items on which the Board deliberated, the Board members recorded as present or absent, and whether the members were present physically, by videoconference, or telephonically.

c) The Board will keep a verbatim record of all its closed deliberative sessions in the form of an audio or video recording in accordance with Section 2.06(a) of the Open Meetings Act ~~{[5 ILCS 120/2.06(a)]}~~. Verbatim recordings of all such sessions will be available to the public only as provided in ~~Sections~~Section 2.06(c) and (e) of the Open Meetings Act ~~{[5 ILCS 120/2.06(c) and (e)]}~~.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.140 Accessibility of Open Board Meetings and Hearings

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the Board will make every effort to hold public meetings and hearings in facilities that ~~which~~ are accessible to people with disabilities. Persons requiring such services should contact the ~~Dorothy Gunn~~, Clerk of the Board, at 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601 or at 312/814-3620 ~~within~~ at least five ~~(5)~~ days prior to a Board meeting or hearing.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

SUBPART B: FEES AND FORMS OF PAYMENT

Section 2175.200 Filing Fees

a) A person filing an action for which a filing fee is prescribed by Section 7.5 of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7.5] must ~~shall~~ pay that fee at the time the petition is presented to the Clerk for filing.

b) The following initial filings require filing fees and will only be considered filed when accompanied by the appropriate fee, ~~which may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, but which may not be paid in cash.~~

1) Petition for Site-Specific Regulation, \$75;-

2) Petition for Variance, \$75; -

3) Petition for Review of Illinois Environmental Protection Agency (Agency) Permit Decision, Underground Storage Tank (UST) Decision, or any other final ~~appeal determination pursuant to Section 40 of the Illinois Environmental Protection Act [415 ILCS 5/40], \$75; -~~

4) Petition to Contest Local Government Pollution Control Facility Siting Decision, pursuant to Section 40.1 of the ~~Illinois Environmental Protection Act [415 ILCS 5/40.1], \$75; and~~

5) Petition for Adjusted Standard, pursuant to Section 28.1 of the ~~Illinois Environmental Protection Act [415 ILCS 5/28.1], \$75.~~

c) The Clerk will refuse to file any petition ~~which that is~~ that is not accompanied by the required fee. The fee must be paid in the form specified in Section 2175.215 of ~~these rules~~ this Part.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.205 ~~Photocopying~~ Copying Fees

a) Most ~~All~~ 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 ~~may be copied~~ at the Board office ~~offices~~ in Chicago upon payment of reasonable reproduction fees ~~[415 ILCS 5/7]~~ as follows:

1a) A hard copy of a single opinion and order will be furnished on request without cost, irrespective of length, with any ~~the~~ dissenting and/or concurring ~~opinion(s)~~ opinions ~~s~~. Hard ~~Copies~~ copies of multiple opinions and orders cost 75 cents per page.

2b) Hard copies of ~~Hearing Transcripts~~ hearing transcripts cost 75 cents per page.

3e) Hard copies of ~~All~~ all other documents cost 75 cents per page.

d) ~~State agencies are, upon request, provided copies of opinions and orders and transcripts free of charge.~~

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(b)]

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 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.210 ~~Photocopying~~ Copying Procedures

a) All files, records, and data may be copied at the Board's ~~offices in~~ Chicago office upon payment, except for information exempted pursuant to Section 7 of FOIA [5 ILCS 140/7]. (See Section 2175.300 of this Part.) ~~[415-ILCS 5/7.]~~

b) The Board will contract for any copying that would impose a substantial administrative burden on the Board. The person requesting such copies will be charged the reproduction charges incurred by the Board.

c) Requests for copies will be honored in as timely a manner as is reasonably practicable ~~possible~~. Requests to receive ~~for~~ copies by mail will be honored. However, the Board reserves the right to charge the requesting party for the mailing costs incurred by the Board.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.215 Forms of ~~Of~~ Payment

a) Any amount over \$10 must be paid by check or money order made payable to the Illinois Pollution Control Board, except as provided in subsection (b) of this Section. ~~A State agency may use an Office of the Comptroller voucher to remit payment for filing fees and photocopy charges.~~

b) Filing fees may be paid in the form of a check or money order made payable to the Illinois Pollution Control Board, or cash, but cash payment is discouraged. A State agency may use an Office of the Comptroller voucher to remit payment for filing fees (see Section 2175.200 of this Part) and copy fees (see Section 2175.205 of this Part).

~~ebc) If in the event that a check for filing fees, paid pursuant to Section 7.5 of the Illinois Environmental Protection Act is not honored by petitioner's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. Failure to make payment may subject petitioner the parties to sanctions, including penalties as provided for in the Board's procedural rules. (See 35 Ill. Adm. Code ~~101.800-120~~ 101.800.)~~

~~ded) If in the event that a check for ~~photocopying~~ copying fees ~~charges~~ is not honored by the remitter's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. The Fiscal Officer may also require that ~~photocopy~~ copy fees be paid only by certified check or money orders prior to the conveyance of material for any entity ~~firm~~ or individual who remits to the Board a check that ~~which~~ subsequently is not honored by the remitter's bank.~~

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.220 Other Fees/Costs

The Board may, in its procedural rules (see 35 Ill. Adm. Code ~~101-120-130~~101.130), provide for the payment of certain types of its costs where appropriate.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

SUBPART C: PUBLIC INFORMATION

Section 2175.300 Files Open to Reasonable Inspection

a) The Clerk will maintain files containing all information submitted to or produced by the Board or any of its members relating to matters within the Board's jurisdiction. ~~Without limiting the foregoing, the~~The files will include: pleadings, motions, notices, minutes, transcripts, exhibits, orders and opinions, proposed and adopted regulations, the Environmental Register and other Board releases, business records, and informal complaints.

b) Pursuant to ~~Section 1 of the~~ Illinois State Records Act, the Clerk will ~~shall~~ maintain for five ~~(5)~~ years, all documents submitted by the parties in ~~rulemaking and adjudicatory cases and participants in rulemaking~~rulemaking [5 ILCS 160/1]. After five ~~(5)~~ years, the documents will ~~shall~~ be microfilmed and the microfilm will ~~shall~~ be maintained by the Board. Documents microfilmed for the Board's record are subject to destruction unless the parties or participants request that the documents be returned at the closure of the five ~~(5)~~ year period. Over-sized exhibits ~~which~~ that are not capable of being microfilmed will be returned to the parties or participants at their request or destroyed.

c) All files, records, and data, other than personnel files, are maintained by the Clerk's Office and are available from the Clerk of the Board, in the Board's Chicago office ~~only~~. Most of these materials are also available through the Board's Web site (see Section 2175.310 of this Part), where they may be viewed, searched, and downloaded. Such types of material include but are not limited to:

1) Documents filed ~~within~~in an adjudicatory case or rulemaking, including, ~~but not limited to~~ appearances, pleadings, exhibits, motions, transcripts of hearings, and public comments;

2) Opinions and ~~& Orders~~orders of the Board;

3) ~~Copies of documents~~Documents published by the Board for use by the general public, such as the Environmental Register.

d) The files, records, and data of the Board are open to reasonable public inspection and copying in the Board's Chicago office, except for information exempted pursuant to Section 7 of FOIA ~~the Freedom of Information Act~~ [5 ILCS 140/7], including ~~but not limited to~~, information ~~that~~which that constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communication between or among the Board and ~~ex~~ staff; draft orders and opinions and orders; and technical unit memoranda.

e) The Board has adopted procedural rules at 35 Ill. Adm. Code ~~120-130~~ to establish the procedures to be taken by any person to obtain ~~trade secret~~ protection for trade secrets and other non-disclosable information as described in Section 7 of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7]. (See 35 Ill. Adm. Code ~~101-120-130~~.)

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.305 Publications

a) Environmental Register

1) The Board's monthly publication, the ~~will publish an~~ Environmental Register, ~~containing~~ 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~~. offices.

2) A yearly hard copy subscription may be purchased, at a cost of \$20 to defray ~~defer~~ 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 ~~Home-Page~~ Web site (see ~~as described at~~ Section 2175.310 of this Part).

b) Opinions, Orders, Regulations

1) Copies of opinions and orders of the Board are available upon request as provided at Section 2175.205(a) 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~~ 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~~ 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 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 peremptory regulations as required by Sections 5-45 and 5-~~504650~~ of the ~~IAPA~~ Illinois Administrative Procedure Act ~~(IAPA [5 ILCS 100/5-45 and 5/504650])~~. 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 ~~Illinois Environmental Protection 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 ~~which sets~~ setting forth rules that ~~which~~ the Board may be considering during a six-month period. This agenda lists ~~is to list~~ rules before ~~in advance of~~ 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 ~~Illinois Environment Protection Act~~ ~~([415 ILCS 5/7.3])~~ and Section 5-70(b) of the IAPA ~~Illinois Administrative Procedure Act~~ ~~([5 ILCS 100/5-70(b)15])~~ allow the Board to publish other documents concerning its activities. These include, ~~but are not limited to,~~ notices of public hearings, and notices of proposed and adopted identical-in-substance rules as discussed in Section 7.2 of the ~~Illinois Environmental Protection Act~~ ~~([415 ILCS 5/7.2])~~.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.310 ~~Board's Home Page on World Wide Web Internet~~ Board Web Site

a) The Board maintains a ~~Home Page on the World Wide Web of the Internet.~~ ~~The information on the Home Page is continuously updated.~~ The Board's Home Page Web site with information that includes, ~~but is not limited to,~~ the following-~~information:~~

- 1) Board Members' Profiles and a Citizen's Guide to the Board;
- 2) Environmental Register;
- 3) Open Board Meeting and Closed Deliberative Session Dates and Agendas;
- 4) Procedural Rules in Title 35 of the Illinois Administrative Code;
- 5) Administrative Rules in Title 2 of the Illinois Administrative Code;

- 6) Annual Reports;
- 7) ~~Summary of Pending Rulemakings;~~
- 8) ~~Summary of Recent Legislation Affecting the Board;~~
- 9) Open Board Meeting Minutes;
- 10) The Clerk's Office On-Line (COOL); COOL is the Board's searchable electronic docketing system for rulemakings and adjudicatory cases, containing Board opinions and orders, hearing transcripts, and participant and party filings, all of which may be viewed, searched, and downloaded;
- 11) Environmental Regulations in Title 35 of the Illinois Administrative Code;
- 12) The Act ~~{[415 ILCS 5]}~~; and
- 13) Formal and informal complaint forms.

b) The information on the Board's ~~Home Page~~ Web site can be downloaded free of Board charges. The ~~Home Page~~ Web site can be accessed through the Internet using any commercially available on-line service. The ~~Home Page~~ Web site can be accessed directly at ~~via~~ the following electronic address:

~~http://www.state.il.us/pcb/pebhp.htm~~ ~~http://www.ipcb.state.il.us~~

c) The Board's Web site ~~Home Page~~ can also be accessed through the State of Illinois ~~Home Page~~ Web site ~~(under the "Agencies" option)~~ at the following electronic address:

~~http://www.state.il.us/~~

~~http://www.illinois.gov/government/agency.cfm~~

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.315 Documents Prepared by the Clerk's Office

Various documents are routinely prepared by and for the Clerk's ~~Office~~ Office for internal use by the Board and are also available for inspection and copying. These include, ~~but are not limited to,~~ docket sheets, listings of adjudicatory cases and rulemakings by type and status ~~tracking~~ sheets. Hard ~~Copies~~ copies will be available within five ~~(5)~~ working days of a request at a cost of \$5.00 per page.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

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~~ Office to provide the material. Inspection of documents can only take place at the Clerk's Office.

b) A formal request for information pursuant to ~~the Freedom of Information Act (FOIA)~~ must ~~shall~~ state that it is a formal request pursuant to FOIA. The formal request must ~~shall~~ be addressed to the Clerk of the Board, who ~~will~~shall date-stamp the request upon receipt. All formal requests will be processed pursuant to the timeframe ~~time frame~~ requirements set forth in FOIA. ~~The FOIA requires an initial response to the request be made within seven (7) working days of receipt of the formal request, subject to extension.~~

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 ~~shall~~ must include a copy of the formal request, the 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 ~~(7)~~ working days after receipt of the notice.

2) If the Chairman affirms the denial or fails to take action within seven ~~(7)~~ working days, the person may file suit in circuit court for injunctive or declaratory relief pursuant to Section 11 of ~~the FOIA~~ ~~+[5 ILCS 140/11]-~~.

(Source: Amended at 30 Ill. Reg. , 14990, effective August 29, 2006)

SUBPART D: ACCESS TO BOARD RULES

Section 2175.400 Access to Board Rules in the Illinois Administrative Code

a) All Board rules have been codified under Title 35 of the Illinois Administrative Code since October, 1983. Each general area of regulation has been assigned a particular Subtitle as set out below:

SUBTITLE	SUBJECT MATTER
A	Procedural Rules
B	Air Rules
C	Water Rules
D	Mine Rules
E	Livestock Waste
F	Public Water Supplies
G	Waste Disposal
H	Noise Rules
I	Nuclear Radiation
M	Biological Materials

SUBTITLE SUBJECT MATTER
AProcedural Rules
BAir Rules
CWater Rules
DMine Rules
ELivestock Waste
FPublic Water Supplies
GWaste Disposal
HNoise Rules
INuclear Radiation
MBiological Materials

b) The Subtitles listed in subsection (a) of this Section, ~~above~~, also include some rules of the ~~Environmental Protection Agency and the Department of Natural Resources Agency~~. The Board's rules appear at Chapter I of each of the Subtitles.

(Source: Amended at 30 Ill. Reg. , 14990, effective August 29, 2006)

SUBPART E: RULEMAKING

Section 2175.500 Proposals

a) Rulemaking procedures are set out in the Board's procedural rules at 35 Ill. Adm. Code 102.

1) The Act provides for five types of rulemakings:

A) Identical-in-substance rulemakings, as defined in Sections 7.2, 13.3, 28.2, and 28.4 of the Act ~~415 ILCS 5/7.2, 13.3, 28.2, and 28.4~~ (see 35 Ill. Adm. Code 102.610);

B) Federally required rules, as defined in Section 28.2 of the Act ~~415 ILCS 5/28.2~~ (see 35 Ill. Adm. Code 102.Subpart E);

C) Other regulatory proposals, both of general applicability and not of general applicability, as allowed by Sections 26, 27, and 28 of the Act ~~415 ILCS 5/26, 27, and 28~~ (see 35 Ill. Adm. Code 102.Subpart B);

D) Clean Air Act fast-track rulemakings, as defined by Section 28.5 of the Act ~~415 ILCS 5/28.5~~ (see 35 Ill. Adm. Code 102.Subpart C); and

E) Updating incorporations by reference, as allowed by Section 28.6 of the Act (415 ILCS 5/28.6) (see 35 Ill. Adm. Code 102.211).

2) The IAPA provides for three types of rulemakings:

A) General rulemaking pursuant to Section 5-40 of the IAPA ~~5 ILCS 100/5-40~~, which includes first notice and second notice (see 35 Ill. Adm. Code 102.600-102.608);

B) Emergency rulemaking pursuant to Section 5-45 of the IAPA ~~5 ILCS 100/5-45~~ (see 35 Ill. Adm. Code 102.612); and

C) Peremptory rulemaking pursuant to Section 5-50 of the IAPA ~~5 ILCS 100/5-50~~ (35 Ill. Adm. Code 102.614).

b) Proposals for the adoption, amendment, or repeal of a substantive regulation may be made by the ~~Environmental Protection Agency (Agency)~~, the Illinois Department of Natural Resources (Department), the Board, or any member of the public. Only the Agency may propose a Clean Air Act fast-track rulemaking ~~415 ILCS 5/28.5~~. Proposals made by the Agency, Department, or Board are automatically scheduled for hearings.

c) In the case of a proposal made by a member of the public, the proposal must be accompanied by a petition signed by 200 persons, specifying home addresses, unless that requirement is waived by the Board. When the proposal is accompanied by a petition, the matter is placed on the agenda for Board decision. Generally, the Board will authorize a hearing unless it determines that the proposal is plainly devoid of merit, or deals with a subject on which a hearing has been held within the preceding six months, or is not accompanied by an adequate statement of supporting reasons. The proponent will be notified of an adverse decision and of the reasons for such a decision.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.505 ~~Initial~~ Hearing

a) All hearings on regulatory proposals are conducted according to the Board's procedural rules at 35 Ill. Adm. Code 102. These hearings are open to the public, and at such hearings, the public is permitted to examine the record, examine witnesses ~~(except as limited by the Hearing Officer)~~, testify, and submit evidence, except as limited by the Hearing Officer or Board procedural rule.

b) Unless otherwise directed by the Hearing Officer or the Board, the rulemaking record remains open for written public comment for a minimum of 14 days following the Board's receipt ~~else~~ of the hearing transcript. Any person may make a written submission on the proposal within this period or during the first notice period pursuant to the ~~Administrative Procedure Act (IAPA)~~ ([5 ILCS 100]).

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.510 First Notice

a) The Board may adopt a proposed rule for first notice pursuant to Section 5-40 of the ~~IAPA~~ APA at any time after a regulatory proceeding is initiated ([5 ILCS 100/5-40]). The proposed rules are filed with the Secretary of State for first-notice publication in the Illinois Register. Generally, the Board does not proceed to first notice until merit and economic hearings have concluded and comments have been received unless there is a need to proceed more expeditiously.

b) The public has a right to comment on the proposed rules during the first-notice period and retains all other rights set out in Section 5-40 of the IAPA ([5 ILCS 100/5-40]).

c) Pursuant to Section 28 of the ~~Illinois Environmental Protection Act~~, the Board may, after hearing ~~in general~~, revise the proposed regulation before adoption without conducting further hearings ([415 ILCS 5/28]).

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.515 Second Notice

a) Upon termination of the first-notice period, the Board may adopt the proposal for second notice pursuant to Section 5-40 of the ~~IAPA~~ APA ([5 ILCS 100/5-40]), for review by the Joint Committee on Administrative Rules (JCAR).

b) After the second-notice period has commenced, the proposed rules will only be amended in response to JCAR recommendations.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.520 Adopted Rules

a) At the conclusion of the second-notice period, the Board may adopt a final opinion and order adopting the new or amended rules and setting forth the reasons for adoption.

b) The adopted rules are then filed with the Secretary of State and are published in the Illinois Register along with supporting information.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.525 Emergency Rules

Pursuant to the Illinois Emergency Management Agency Act ~~+[20 ILCS 3305/7]-~~ ~~Illinois Emergency Services and Disaster Act of 1975 [65 ILCS 5/1]~~, on proclamation by the Governor, that a disaster ~~emergency~~ exists, or when the Board finds that a severe public health emergency is involved in relation to any proposed regulation, then such regulation will ~~shall~~ take effect without delay and the Board may proceed with the required economic impact hearings while the regulation continues in effect ~~+[415 ILCS 5/27(c)-]~~. When such an emergency exists, or when the Board finds another situation exists that reasonably constitutes a threat to the public interest, safety, or welfare, the customary 45-day notice period ~~provision~~ is waived; however, notice and text of the emergency rule must be published in the Illinois Register ~~+[5 ILCS 100/5-45(b)-]~~. An emergency rule is effective for a maximum period of 150 days pursuant to Section 5-45(c) of the IAPA [5 ILCS 100/5-45(c)], but it may be adopted as a permanent rule by following usual rulemaking procedures.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.530 Peremptory Rules

When the Board is required by federal law, federal rules and regulations, or by a court order to adopt a certain rule, that rule need not be published in the Illinois Register until it has been adopted pursuant to Section 5-50 of the IAPA ~~+[5 ILCS 100/5-5070-]-]~~ 50]. However, notice and text of the adopted rule must be published in the Illinois Register pursuant to Section 5-70 of the ~~IAPA-APA-~~ ~~+[5 ILCS 100/5-70-70]-]~~]

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.535 Rules Identical-In-Substance to ~~Adoption of~~ Federal Regulations

a) The Board adopts regulations in the following programs pursuant to Section 7.2 of the ~~Illinois Environmental Protection 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 ~~Illinois Administrative Procedure Act~~ ~~+[5 ILCS 100/5-35 and 5-40]-]~~:

1a) Exemptions from the definition of volatile organic material: Section 9.1(e) of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/9.1(e)]-]~~,

2b) Underground injection control (UIC): Section 13(c) of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/13(c)]-]~~,

3e) Wastewater pretreatment: Section 13.3 of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/13.3]-]~~,

4d) ~~Safe Drinking Water Act (SDWA): Section 17.5 of the Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/17.5]-~~→,

5e) ~~Resource Conservation and Recovery Act (RCRA), Subtitle C, hazardous waste~~ ~~(RCRA Subtitle C): Section 22.4(a) of the Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/22.4(a)]-~~→,

6f) ~~RCRA Resource Conservation and Recovery Illinois Environmental Protection Act~~ ~~RCRA, Subtitle I, underground storage tank (UST): Section 22.4(d) of the Illinois Environmental Protection Act~~ ~~+[415 ILCS 22.4(d)]-~~→,

7g) ~~RCRA Resource Conservation and Recovery Act, Subtitle D municipal solid waste landfills~~ ~~(RCRA Subtitle D): Section 22.40(a) of the Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/22.40(a)]-~~→.

b) Section 7.2(b) of the Act ~~+[415 ILCS 5/7.2(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 30 Ill. Reg. _____, 14990, effective
August 29, 2006)

Section 2175.540 Federally Required Rules

Under Section 28.2 of the Act ~~+[415 ILCS 5/28.2]-~~, the Board may adopt a "required rule." A "required rule" means a rule that is needed to meet the requirements of the federal Clean Water Act, SDWA, Clean Air Act (including required submission of a State Implementation Plan), or RCRA, other than a rule required to be adopted as an identical-in-substance rule (see Section 2175.535 of this Part) [415 ILCS 5/28.2(a)].

(Source: Added at 30 Ill. Reg. _____, 14990, effective
August 29, 2006)

Section 2175.545 Generally Applicable Rules and Site-Specific Rules

Under Sections 27 and 28 of the Act ~~+[415 ILCS 5/27 and 28]-~~, the Board may adopt substantive environmental rules of generally applicability and of site-specific applicability. Under Section 26 of the Act ~~+[415 ILCS 5/26]-~~, the Board may adopt such procedural rules as may be necessary to accomplish the purposes of the Act.

(Source: Added at 30 Ill. Reg. _____, 14990, effective
August 29, 2006)

Section 2175.550 Clean Air Act Fast-Track Rulemaking

Under Section 28.5 of the Act ~~+[415 ILCS 5/28.5]~~, the Board may adopt rules proposed by the Agency that are required to be adopted by the State under the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAAA). A "fast-track" rulemaking proceeding is a proceeding to promulgate a rule that the CAAA requires to be adopted. For purposes of this type of rulemaking, "requires to be adopted" refers only to those regulations or parts of regulations for which USEPA is empowered to impose sanctions against the State for failure to adopt such rules [415 ILCS 5/28.5(a) and (c)].

(Source: Added at 30 Ill. Reg. _____, 14990, effective
_____August 29, 2006)

Section 2175.555 Updating Incorporations By Reference

Under Section 28.6 of the Act ~~+[415 ILCS 5/28.6]~~, the Board may update an incorporation by reference included in a Board rule without conducting hearings if no objection is filed or hearing is requested during the first-notice period pursuant to Section 5-40 of the IAPA ~~+[5 ILCS 100/5-40]~~. Such rulemaking is limited to replacing a reference in a Board rule to an older or obsolete version of an incorporated document with a reference to the current version of that document or its successor document.

(Source: Added at 30 Ill. Reg. _____, 14990, effective
_____August 29, 2006)

SUBPART F: ADJUDICATORY PROCEEDINGS

Section 2175.600 Adjudicatory Proceedings

a) The Board is authorized to hear the following types of adjudicatory cases: (See 35 Ill. Adm. Code 101-~~120~~-130 for procedural rules governing the processing of these cases.)

1) Enforcement Action. The Illinois Attorney General, any State's Attorney, or any person may initiate an enforcement action by the filing of a complaint pursuant to Section 31 of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/31]~~. ~~(See 35 Ill. Adm. Code 103.)~~

2) Permit Appeal. Any person who, pursuant to Section 39 of the Act ~~+[415 ILCS 5/39]~~, has been denied a permit by the Agency, or ~~who has been issued a permit by the Illinois Environmental Protection Agency pursuant to Section 39 of the Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/39]~~ Agency with one or more conditions to which that person objects, may file a petition with the Board for ~~a~~ review of the Agency's action. If the Agency grants a RCRA permit for a hazardous waste disposal site or grants or denies a National Pollutant Discharge Elimination System (NPDES) permit, certain third parties may petition the Board for a hearing to contest the decision of the Agency ~~+[415 ILCS 5/40(b), (e)(1)]~~. (See 35 Ill. Adm. Code 105.)

3) Pollution Control Facility Siting Review. An applicant for local siting approval of a pollution control facility who has been denied such approval or granted conditional approval by a county board or the governing body of a municipality ~~or third party who participated in the public hearing conducted by a county board or the governing body of a municipality~~ may contest that decision by filing a petition for hearing pursuant to Section 40.1(a) of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/40.1(a)]~~. A third party who participated in the public hearing conducted by a county board or the governing

body of a municipality may contest a grant of local siting approval by filing a petition for hearing pursuant to Section 40.1(b) of the Act ~~+[415 ILCS 5/40.1(b)]~~. (See 35 Ill. Adm. Code 107.)

4) Variances/Adjusted Standards. Any person adversely affected by a Board rule or order may file a petition for a variance ~~or adjusted standard~~ pursuant to Section 37 of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/37]~~ or a petition for an adjusted standard pursuant to Section 28.1 of the Act ~~+[415 ILCS 5/28.1]~~. (See 35 Ill. Adm. Code 104.)

5) Trade Secret Determination. Any person who is adversely affected by a trade secret determination made by the ~~Illinois Environmental Protection Agency~~ or the ~~Illinois Department of Natural Resources~~ may contest that determination before ~~to~~ the Board. (See 35 Ill. Adm. Code 130.)

6) Appeal of Office of the State Fire Marshal (OSFM) UST Fund ~~Denial of~~ Eligibility or Deductibility Determination ~~to UST Program~~. Owners or operators of USTs ~~underground storage tanks~~ who have been denied eligibility by the OSFM to access the UST ~~underground storage tank~~ reimbursement fund, or who disagree with an OSFM determination of the applicable deductible for UST Fund reimbursement, ~~by the Office of State Fire Marshal~~ may petition for review pursuant to Section 57.9(c) of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/57.9(c)]. (See 35 Ill. Adm. Code 105.)

7) Appeal of Agency Decisions Regarding UST Program. Owners or operators of USTs ~~underground storage tanks~~ who have been denied requested UST Fund reimbursement or UST cleanup approvals by the Agency may petition for review pursuant to Section 40 of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/40]~~. (See 35 Ill. Adm. Code 105.)

8) Tax ~~Pollution Control Facility~~ Certifications. Under the Property Tax Code, the Board may issue a certificate finding that a facility is a "pollution control facility" or that a device is a "low sulfur dioxide emission coal fueled device" for property tax purposes ~~+[35 ILCS 200/11-10, 11-40]~~. A person seeking a tax certificate must first submit an application to the Agency. The Agency is then required to file with the Board a recommendation on whether the Board should issue the certificate. An applicant who wishes to contest an Agency recommendation that the Board deny tax certification may file a petition with the Board. (See 35 Ill. Adm. Code 125.) ~~Application for a pollution control facility certificate demonstrating that a particular facility is entitled to tax treatment as a pollution control facility as defined in Section 11-10 of the Property Tax Code may be filed with the Board pursuant to Sections 11-25 and 11-30 of that Code [35 ILCS 200/11-25 and 11-30].~~

9) Administrative Citations. The Agency or a unit of local government delegated authority by the Agency, may issue administrative citations for violations of ~~the Illinois Environmental Protection Act, Sections~~ Section 21(o) and (p) of the Act ~~+[415 ILCS 5/21(o) and (p)]~~, ~~and tThese]~~. These citations are ~~shall be~~ enforceable by filing copies with the Board pursuant to Section 31.1 of the ~~Illinois Environmental Protection Act~~ ~~+[415 ILCS 5/31.1]~~. The respondent named in the administrative citation may file a petition for review with the Board. (See 35 Ill. Adm. Code 108.)

10) Water Well Setback Exceptions. A water well owner may petition the Board for an exception from the water well setback requirements of the ~~Illinois Environmental Protection Act~~ by filing a petition with the Board ~~and the Agency~~

pursuant to Section 14.2 of the ~~Illinois Environmental Protection Act~~ ([415 ILCS 5/14.2.] ~~14.2~~). (See 35 Ill. Adm. Code 106.)

11) Other. Any other proceedings ~~which are authorized by the Illinois Environmental Protection Act~~ or the Board's procedural rules may be brought before the Board pursuant to statutory authority and any Board regulations adopted thereunder.

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August 29, 2006)

Section 2175.APPENDIX A Organizational Chart

~~ORGANIZATIONAL CHART~~

~~MEMBERMEMBERCHAIRMANMEMBERMEMBER~~ _____

~~Attorney Assistant~~

~~Attorney Assistant~~

~~Attorney Assistant~~

~~Attorney Assistant~~

~~Attorney
Assistant~~

~~Private Secretary~~ _____

~~Private Secretary
Private Secretary
Administrative
Assistant
Private Secretary~~

~~Senior Environmental
Scientist
Senior Attorney~~

~~Executive
Coordinator
Fiscal Officer~~ _____

~~Senior Attorney~~

~~Staff Attorney
Rulemaking
Coordinator~~ _____
~~Environmental~~

~~Scientist~~
~~Executive Secretary~~
~~Clerk of the Board~~
~~Accountant~~
~~Human Resource~~
~~Manager~~
~~Public Information~~
~~Coordinator~~

~~Assistant Clerk~~
~~Hearing Officer~~

~~Hearing~~
~~Officer~~

~~Paralegal~~

~~Assistant Information MEMBER MEMBER CHAIRMAN MEMBER MEMBER Attorney Assistant Attorney~~
~~Assistant Attorney Assistant Attorney Assistant Attorney Assistant Private~~
~~Secretary Private Secretary Private Secretary Administrative Assistant Private~~
~~Secretary Senior Environmental Scientist Senior Attorney Executive~~
~~Coordinator Fiscal Officer Senior Attorney Staff Attorney Rulemaking~~
~~Coordinator Executive Secretary Clerk of the Board Accountant Human Resource~~
~~Manager Public Information Coordinator Environmental Scientist Assistant~~
~~Clerk Hearing Officer Hearing Officer Paralegal Assistant Information Systems~~
~~Analyst Information Systems Analyst Information Systems Analyst~~

(Source: Amended at 30 Ill. Reg. _____, 14990, effective _____ August
29, 2006)

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~JCAR022175-0614990r01~~

~~NOTICE OF ADOPTED AMENDMENTS~~

~~ILLINOIS REGISTER~~

~~POLLUTION CONTROL BOARD~~

~~NOTICE OF ADOPTED AMENDMENTS~~

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Total changes	757

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

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STATE OF ILLINOIS
Pollution Control Board

- 10 Section
- 11 2175.100 Summary and Purpose
- 12 2175.105 Board Membership
- 13 2175.110 Organization and Supervisory Relationships
- 14 2175.115 Location of Offices
- 15 2175.120 Board Meetings
- 16 2175.125 Public Notice of Open Board Meetings and Closed Deliberative Sessions
- 17 2175.130 Agenda of Open Board Meetings and Closed Deliberative Sessions
- 18 2175.135 Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed
- 19 Deliberative Sessions
- 20 2175.140 Accessibility of Open Board Meetings and Hearings

SUBPART B: FEES AND FORMS OF PAYMENT

- 24 Section
- 25 2175.200 Filing Fees
- 26 2175.205 ~~Copying~~ Photocopying Fees
- 27 2175.210 ~~Copying~~ Photocopying Procedures
- 28 2175.215 Forms of Payment
- 29 2175.220 Other Fees/Costs

SUBPART C: PUBLIC INFORMATION

- 33 Section
- 34 2175.300 Files Open to Reasonable Public Inspection
- 35 2175.305 Publications
- 36 2175.310 ~~Board Web Site~~ Board's Home Page on World Wide Web Internet
- 37 2175.315 Documents Available from the Clerk's Office
- 38 2175.320 Requests ~~for~~ For Information

SUBPART D: ACCESS TO BOARD RULES

- 42 Section
- 43 2175.400 Access to Board Rules in the Illinois Administrative Code

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SUBPART E: RULEMAKING

- Section
- 2175.500 Proposals
- 2175.505 ~~Initial 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 Adoption of 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
- 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.

SUBPART A: INTRODUCTION AND ORGANIZATION

Section 2175.100 Summary and Purpose

As required by Section 5-15 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-15] and Section 140/4 of the Freedom of Information Act (FOIA) [5 ILCS 140/4], this Part sets forth the administrative rules ~~that~~^{which} apply to the Illinois Pollution Control Board (Board). These rules are intended to generally explain what the Board is, how the Board is organized and operates, and how the public can get information from the Board. These rules do not explain, and are not intended to explain, the Board's procedural requirements for processing

87 ~~rulemaking~~rules and adjudicatory cases. Those procedural rules are found at 35 Ill. Code
 88 101-130-20. If there is a conflict between the Board's procedural rules (35 Ill. Adm. Code 101-
 89 130) and this Part, the procedural rules will control.

90
 91

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

92
 93

Section 2175.105 Board Membership

94
 95

a) The Board was created pursuant to Section 5 of the ~~Illinois~~Environmental
 96 Protection Act (Act) [415 ILCS 5/5]. The Board is a quasi-legislative and quasi-
 97 judicial administrative agency responsible for adopting environmental regulations
 98 and deciding certain environmental disputes and cases brought pursuant to the
 99 ~~Illinois Environmental Protection Act~~. The Board determines, defines, and
 100 implements environmental control standards in accordance with the ~~Illinois~~
 101 ~~Environmental Protection Act~~.

102
 103

b) The Board is comprised of ~~five~~~~seven~~ technically qualified members. The
 104 members are appointed by the Governor with the advice and consent of the
 105 Senate, for a term of three years.

106
 107

c) The Governor designates one member to serve as Chairman. The Chairman
 108 serves at the pleasure of the Governor and is responsible for the administration of
 109 the Board.

110
 111

d) Pursuant to Section 3.1 of the Executive Reorganization Implementation Act [15
 112 ILCS 15/3.1], the Board is an agency of State government that is *created by law*
 113 *with the primary responsibility of exercising regulatory or adjudicatory functions*
 114 *independently of the Governor. As such, the Board is excluded from the term*
 115 *"Agency directly responsible to the Governor" or "agency" as defined in the*
 116 *Executive Reorganization Implementation Act [15 ILCS 15/3.1].*

117
 118

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

119
 120

Section 2175.110 Organization and Supervisory Relationships

121
 122

a) Each member of the Board is aided by a confidential assistant who may be an
 123 attorney or who may have an advanced technical degree, and a personal secretary.
 124 The Chairman may have two confidential assistants and a personal secretary.

125
 126

b) ~~To~~~~in order to~~ carry out its functions, the Board is comprised of the following
 127 offices and units: Clerk's Office, Legal Unit, ~~Hearings Unit~~, Technical Unit, and
 128 Fiscal Unit. The function of each is as follows:

129

- 130 1) Clerk's Office. This ~~office~~Office is responsible for the processing,
 131 maintenance, and distribution of all regulatory and adjudicatory case
 132 related materials of the Board. The Clerk's Office is located in Chicago.
 133
- 134 2) Legal Unit. This unit is responsible for general legal functions of the
 135 Board and case or rule-related legal responsibilities, as designated by the
 136 Chairman. Under the direction of the Senior Attorney, this unit also
 137 consists of attorneys responsible for conducting Board adjudicatory
 138 hearings throughout the State, making such rulings as may be necessary at
 139 hearing, and generally managing the Board's adjudicatory caseload.
 140
- 141 3) Technical Unit. This unit is comprised of environmental specialists
 142 responsible for gathering such technical and scientific data as may be
 143 required by the Board in the performance of its duties and for advising the
 144 Board on technical issues related to pending adjudicatory cases and
 145 rulemakings, as assigned by the Chairman.
 146
- 147 4) ~~Hearings Unit. Under the direction of a Chief Hearing Officer, this unit is~~
 148 ~~comprised of attorneys responsible for conducting Board hearings~~
 149 ~~throughout the State, making such rulings as may be necessary at hearing,~~
 150 ~~and generally managing the Board's adjudicatory caseload.~~
 151
- 152 4)5) Fiscal UnitOffice. Under the direction of a Fiscal Officer, this unit is
 153 responsible for budgeting, expenditures, procurement, computer
 154 operations, and related duties.
 155
- 156 c) The Board may also employemploys other professional staff to carry out its
 157 functions and mandates, including ~~but not limited to~~ an Executive Coordinator, a
 158 Public ~~Information Affairs~~ Information Systems Coordinator, a Human Resources Manager, an
 159 Information Systems Analyst, and a Rulemaking CoordinatorServices
 160 Coordinator, and a ~~Legislative and Governmental Affairs~~ Legislative and Governmental Affairs Coordinator.
 161
- 162 d) Organizational relationships are shown in the organizational chart in Appendix A
 163 at the end of this Part. Detailed descriptions of the specific responsibilities and
 164 duties of each of the job titles are maintained in the Board's Springfield or
 165 Chicago office.
 166

167 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
 168

169 **Section 2175.115 Location of Offices**
 170

- 171 a) The Board maintains two central offices, one in Chicago and one in Springfield.
 172 ~~The Board may also maintain satellite offices in various regions of the State.~~

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b) The Clerk's Office is located in the Chicago ~~office~~Office. The address and general telephone number of the Chicago office is:

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, Illinois 60601
(312) 814-3620
(312) 814-3669 (Fax)

c) ~~The Office of the Chairman, the Fiscal Office, and the Legislative/Government Affairs Coordinator are located in the Springfield office.~~ The address and general telephone number of the Springfield office is:

Illinois Pollution Control Board
1021 North Grand Ave. East
~~600 South Second Street~~
~~Suite 402~~
Springfield, Illinois 6270662704
(217) 524-8500
(217) 524-8508 (Fax)

d) ~~The Board maintains satellite offices in the following locations:~~

~~Illinois Pollution Control Board
110 South State Street
Jerseyville, Illinois 62052
(618) 498-9802
(618) 498-5934 (Fax)~~

~~Illinois Pollution Control Board
148 North Third Street
P.O. Box 505
DeKalb, Illinois 60115
(815) 753-1904
(815) 753-1970 (Fax)~~

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.120 Board Meetings

- 216 a) The Board makes all decisions on adjudicatory cases and regulatory matters at
 217 open meetings of the Board noticed and held in accordance with the Open
 218 Meetings Act [5 ILCS 120]. The Board may also hold meetings that are closed to
 219 the public meetings pursuant to Section 2(c)2(a) of the Open Meetings Act [5
 220 ILCS 120/2(c)(a)], including closed deliberative sessions under Section 2(c)(4) of
 221 the Open Meetings Act [5 ILCS 120/2(c)(4)]. The Board regularly holds closed
 222 deliberative sessions (see Sections 2175.125 and 2175.130 of this Part).
 223
- 224 b) Open Board meetings Meetings may be held when a quorum of Board members,
 225 ~~constituted by four members of the Board,~~ is present. *If there is no vacancy on*
 226 *the Board, four members of the Board constitute a quorum; otherwise, a majority*
 227 *of the Board constitutes a quorum, and no vacancy impairs the right of the*
 228 *remaining members to exercise all of the powers of the Board. Every action*
 229 *approved by a majority of the members of the Board constitutes the action of the*
 230 *Board.* [415 ILCS 5/5(a)] Four affirmative votes are required for any final
 231 determinations of the Board, except in a proceeding to remove a seal under
 232 Section 34(d) of the Illinois Environmental Protection Act [415 ILCS 5/34(d)].
 233
- 234 c) The Board may hold a closed meeting upon a majority vote of a quorum present
 235 taken at an open meeting for which notice has been given as required by the Open
 236 Meetings Act [5 ILCS 120/2a]. Closed meetings may be held when a majority of
 237 a quorum is present [5 ILCS 120/1.02].
 238
- 239 d)e) Board members may attend meetings in the following ways:
 240
- 241 1) Meetings, whether open or closed, may be held with Board members
 242 physically present physically or by videoconference. Closed meetings
 243 may also be held with Board members or present telephonically.
 244
 - 245 2) If a quorum of Board members is present physically or by
 246 videoconference at an open meeting, a majority of the Board may allow a
 247 Board member to attend the meeting telephonically if the member cannot
 248 otherwise attend because of personal illness or disability, the business of
 249 the Board, or a family or other emergency. In such instances, the Board
 250 member who wishes to attend telephonically will notify the Clerk of the
 251 Board before the meeting unless advance notice is impractical.
 252
- 253 e)d) Section 5 of the Illinois Environmental Protection Act requires the Board to hold
 254 at least one open meeting each month and allows the Board to hold special and
 255 emergency meetings [415 ILCS 5/5]. The Chairman or two Board
 256 members Members may call a special or emergency meeting of the Board that is
 257 open to the public.
 258

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

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 Boardthese meetings is given in the Board's Environmental Register, a monthly publication available in hard copy and on the Board's Web siteHome Page (see Section 2175.310 of this Part). Notification of all regular open Board meetings and closed deliberative sessions is also providedposted 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 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) ~~Teleconferencing. The Board attempts to hold one meeting every quarter via teleconferencing equipment, with hook-ups in, at least, Chicago and Springfield. Both locations are open to the public.~~

- 302 **b)e) Public Notice of Special or Emergency Meetings.**
 303
 304 1) Whether a special or emergency meeting is an open Board meeting or a
 305 closed deliberative session, notice ~~Notice~~ of a special or emergency
 306 meeting meetings will generally be given to all Board members and the
 307 public at least 48 hours prior to the meeting. ~~The notice will include a~~
 308 ~~copy of the agenda and will comply with the Open Meetings Act.~~ If,
 309 however, a majority of the Board certifies that an emergency exists and
 310 exigencies of time are such that the 48-hour notice must be dispensed
 311 with, a special meeting may be called by the Chairman or two Board
 312 Members merely by posting notice in the Board's offices and giving notice
 313 to the public of an emergency meeting will be given as soon as is
 314 reasonably far in advance as is practicable, but prior to the holding of such
 315 meeting.
 316
 317 2) Notice of a special or emergency meeting will include a copy of the
 318 meeting agenda and will be posted at the Board's Chicago office, at any
 319 other location where the meeting is to be held, and on the Board's Web site
 320 (see Section 2175.310 of this Part), pursuant to Section 2.02 of the Open
 321 Meetings Act [5 ILCS 120/2.02].
 322
 323 3) Notwithstanding subsections (b)(1) and (2) of this Section, at any open
 324 Board meeting for which notice has been given as required by the Open
 325 Meetings Act, the Board may, without additional notice under Section
 326 2.02 of the Open Meetings Act [5 ILCS 120/2.02], hold a special or
 327 emergency closed deliberative session. Only topics specified in the vote
 328 to close the meeting may be considered during the closed deliberative
 329 session [5 ILCS 120/2a] (see Section 2175.120(c) of this Part).
 330
 331 **c)d) Notice to Media.** The Board gives notice of regular, special, or emergency
 332 meetings, whether the meeting is an open Board meeting or a closed deliberative
 333 session, to any news medium that ~~which~~ has filed an annual request for such notice
 334 under Section 2.02(b) of the Open Meetings Act [5 ILCS 120/2.02(b)].
 335
 336 **d) Videoconference and Teleconference.** Whether the meeting is a regular, special,
 337 or emergency meeting, the Board may hold its open meetings and closed
 338 deliberative sessions by videoconference between Chicago and Springfield
 339 locations. Such open Board meetings may be attended by the public at both
 340 locations. A Board member may attend an open Board meeting telephonically
 341 only in accordance with Section 2175.120(d)(2) of this Part. The Board may hold
 342 its closed deliberative sessions by teleconference.

343
 344 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

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Section 2175.130 Agenda of Open Board Meetings and Closed Deliberative Sessions

- a) The Board maintains an agenda for each of its open Board meetings and closed deliberative sessions in accordance with Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02]. Open Board meeting agendas contain the list of rulemakings, adjudicatory cases, and motions that may be decided by the Board at that meeting. Closed deliberative session agendas contain the list of rulemakings, adjudicatory cases, and motions on which the Board may deliberate at that session. Agendas and are posted at the Board's Chicago office, at any other location where the meeting or session is to be held, offices and on the Board's Web siteHome Page (see Section 2175.310 of this Part).
- b) The Board does not generally place any item on an open Board meeting the agenda that has been filed less than two full days before thea scheduled Board meeting.
- c) The Board may also issue an addendum to the agenda of an open Board meeting or closed deliberative session and, as provided for in Section 2.02(a) of the Open Meetings Act [5 ILCS 120/2.02(a)], may consider items not specifically set forth on the agenda.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.135 Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed Deliberative Sessions

- a) The Board will keep minutes of all open Board meetings in accordance with Section 2.06(a) of the Open Meetings Act [5 ILCS 120/2.06(a)]. Minutes of all such meetings willsubject to the Open Meetings Act shall be available to the public at the Clerk's Office andor on the Board's Web siteHome Page (see Section 2175.310 of this Part302) within seven days of approval of the minutes. The minutes will remain posted on the Board's Web site for at least 60 days after their initial posting [5 ILCS 120/2.06(b)]. The minutes will include the time, date, and place of the meeting, the items decided and the numeric decision vote, the Board members recorded as present or absent, and whether the members were present physically, by videoconference, or telephonically.
- b) The Board will keep minutes of all its closed deliberative sessions in accordance with Section 2.06(a) of the Open Meetings Act [5 ILCS 120/2.06(a)]. Minutes of all such sessions will be available to the public only as provided in Section 2.06(d) and (f) of the Open Meetings Act [5 ILCS 120/2.06(d) and (f)]. The minutes will include the time, date, and place of the session, the items on which

388 the Board deliberated, the Board members recorded as present or absent, and
389 whether the members were present physically, by videoconference, or
390 telephonically.

391
392 c) The Board will keep a verbatim record of all its closed deliberative sessions in the
393 form of an audio or video recording in accordance with Section 2.06(a) of the
394 Open Meetings Act [5 ILCS 120/2.06(a)]. Verbatim recordings of all such
395 sessions will be available to the public only as provided in Section 2.06(c) and (e)
396 of the Open Meetings Act [5 ILCS 120/2.06(c) and (e)].

397
398 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

399
400 **Section 2175.140 Accessibility of Open Board Meetings and Hearings**

401
402 In compliance with the Americans with Disabilities Act and other applicable federal and State
403 laws, the Board will make every effort to hold public meetings and hearings in facilities
404 thatwhich are accessible to people with disabilities. Persons requiring such services should
405 contact ~~the Dorothy Gunn~~, Clerk of the Board, at 100 W. Randolph Street, Suite 11-500, Chicago,
406 Illinois 60601 or at 312/814-3620 at least~~within~~ five (5) days prior to a Board meeting or
407 hearing.

408
409 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

410
411 **SUBPART B: FEES AND FORMS OF PAYMENT**

412
413 **Section 2175.200 Filing Fees**

414
415 a) A person filing an action for which a filing fee is prescribed by Section 7.5 of the
416 ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7.5] ~~must~~shall pay that fee at
417 the time the petition is presented to the Clerk for filing.

418
419 b) The following initial filings require filing fees and will only be considered filed
420 when accompanied by the appropriate fee, ~~which may be paid in the form of~~
421 ~~government voucher, money order or check made payable to the Illinois Pollution~~
422 ~~Control Board, but which may not be paid in cash:~~

- 423
424 1) Petition for Site-Specific Regulation, \$75;-
- 425
426 2) Petition for Variance, \$75;-
- 427
428 3) Petition for Review of Illinois Environmental Protection Agency (Agency)
429 Permit Decision, Underground Storage Tank (UST) Decision, or any other
430 final appeal-determination pursuant to Section 40 of the Illinois

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~~Environmental Protection Act [415 ILCS 5/40], \$75;~~

- 4) Petition to Contest Local Government Pollution Control Facility Siting Decision, pursuant to Section 40.1 of the Illinois Environmental Protection Act [415 ILCS 5/40.1], \$75; and
- 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Illinois Environmental Protection Act [415 ILCS 5/28.1], \$75.

c) The Clerk will refuse to file any petition ~~that~~which is not accompanied by the required fee. The fee must be paid in the form specified in Section 2175.215 of ~~this Part~~these rules.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.205 ~~Copying~~ Photocopying Fees

a) ~~Most~~All 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~~may be copied at the Board office~~offices in Chicago upon payment of reasonable reproduction fees [415 ILCS 5/7] as follows:

1)a) A hard copy of a single opinion and order will be furnished on request without cost, irrespective of length, with any~~the~~ dissenting and/or concurring opinions ~~opinion~~(s). Hard copies~~Copies~~ of multiple opinions and orders cost 75 cents per page.

2)b) Hard copies of hearing transcripts~~Hearing Transcripts~~ cost 75 cents per page.

3)e) Hard copies of all~~All~~ other documents cost 75 cents per page.

d) ~~State agencies are, upon request, provided copies of opinions and orders and transcripts free of charge.~~

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.

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- 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(b)]
- 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 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.210 Copying~~Photocopying~~ Procedures

- a) All files, records, and data may be copied at the Board's~~Board offices in Chicago office upon payment, except for information exempted pursuant to Section 7 of FOIA [5 ILCS 140/7]. (See Section 2175.300 of this Part.)~~~~[415 ILCS 5/7].~~
- b) The Board will contract for any copying that would impose a substantial administrative burden on the Board. The person requesting such copies will be charged the reproduction charges incurred by the Board.
- c) Requests for copies will be honored in as timely a manner as is reasonably practicable~~possible~~. Requests to receive~~for~~ copies by mail will be honored. However, the Board reserves the right to charge the requesting party for the mailing costs incurred by the Board.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.215 Forms of~~Of~~ Payment

- a) Any amount over \$10 must be paid by check or money order made payable to the Illinois Pollution Control Board, except as provided in subsection (b) of this Section. A State agency may use an Office of the Comptroller voucher to remit payment for filing fees and photocopy charges.
- b) Filing fees may be paid in the form of a check or money order made payable to the Illinois Pollution Control Board, or cash, but cash payment is discouraged. A

517 State agency may use an Office of the Comptroller voucher to remit payment for
518 filing fees (see Section 2175.200 of this Part) and copy fees (see Section 2175.205
519 of this Part).

520

521 c)b) ~~If in the event that~~ a check for filing fees, ~~paid pursuant to Section 7.5 of the~~
522 ~~Illinois Environmental Protection Act~~ is not honored by petitioner's bank, the
523 Fiscal Officer may require that payment be made within 48 hours by certified
524 check or money order. Failure to make payment may subject ~~petitioner~~the parties
525 to sanctions, ~~including penalties~~ as provided for in the Board's procedural rules.
526 (See 35 Ill. Adm. Code 101.800-120.)

527

528 d)e) ~~If in the event that~~ a check for ~~copying~~photocopying ~~fees~~charges is not honored by
529 the remitter's bank, the Fiscal Officer may require that payment be made within
530 48 hours by certified check or money order. The Fiscal Officer may also require
531 that ~~copy~~photocopy fees be paid only by certified check or money orders prior to
532 the conveyance of material for any ~~entity~~firm or individual who remits to the
533 Board a check ~~that~~which subsequently is not honored by the remitter's bank.

534

535 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

536

537 **Section 2175.220 Other Fees/Costs**

538

539 The Board may, in its procedural rules (see 35 Ill. Adm. Code 101.130-120), provide for the
540 payment of certain types of its costs where appropriate.

541

542 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

543

544 **SUBPART C: PUBLIC INFORMATION**

545

546 **Section 2175.300 Files Open to Reasonable Inspection**

547

548 a) The Clerk will maintain files containing all information submitted to or produced
549 by the Board or any of its members relating to matters within the Board's
550 jurisdiction. ~~The~~Without limiting the foregoing, the files will include: pleadings,
551 motions, notices, minutes, transcripts, exhibits, orders and opinions, proposed and
552 adopted regulations, the Environmental Register and other Board releases,
553 business records, and informal complaints.

554

555 b) Pursuant to ~~Section 1 of the~~ Illinois State Records Act, the Clerk ~~will~~shall
556 maintain for five (~~5~~) years, all documents submitted by the parties in ~~rulemaking~~
557 ~~and adjudicatory cases and participants in rulemaking~~ [5 ILCS 160/4]. After five
558 (~~5~~) years, the documents ~~will~~shall be microfilmed and the microfilm ~~will~~shall be
559 maintained by the Board. Documents microfilmed for the Board's record are

560 subject to destruction unless the parties or participants request that the documents
 561 be returned at the closure of the five (5)-year period. Over-sized exhibits
 562 thatwhich are not capable of being microfilmed will be returned to the parties or
 563 participants at their request or destroyed.

564
 565 c) All files, records, and data, other than personnel files, are maintained by the
 566 Clerk's Office and are available from the Clerk of the Board, in the Board's
 567 Chicago office. Most of these materials are also available through the Board's
 568 Web site (see Section 2175.310 of this Part), where they may be viewed,
 569 searched, and downloaded.~~only~~. Such types of material include but are not
 570 limited to:

- 571
 572 1) Documents filed in an adjudicatory~~within a case or rulemaking~~, including,
 573 ~~but not limited to,~~ appearances, pleadings, exhibits, motions, transcripts of
 574 hearings, and public comments;
 575
 576 2) Opinions and orders~~& Orders~~ of the Board;
 577
 578 3) Documents~~Copies of documents~~ published by the Board for use by the
 579 general public, such as the Environmental Register.

580
 581 d) The files, records, and data of the Board are open to reasonable public inspection
 582 and copying in the Board's Chicago office, except for information exempted
 583 pursuant to Section 7 of FOIA~~the Freedom of Information Act~~ [5 ILCS 140/7],
 584 including ~~but not limited to,~~ information thatwhich constitutes a trade secret;
 585 information privileged against introduction in judicial proceedings; internal
 586 communication between or among the Board and ~~or~~ staff; draft orders and
 587 opinions and orders; and technical unit memoranda.

588
 589 e) The Board has adopted procedural rules at 35 Ill. Adm. Code 130120~~to~~ to establish
 590 the procedures to be taken by any person to obtain trade secret protection for trade
 591 secrets and other non-disclosable information as described in Section 7 of the
 592 ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7]. (See 35 Ill. Adm. Code
 593 130101-120.)

594
 595 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

596
 597 **Section 2175.305 Publications**

- 598
 599 a) Environmental Register
 600
 601 1) The Board's monthly publication, ~~the Board will publish an~~ Environmental
 602 Register, containseontaining reports of the Board's activities and notices of

603 meetings and hearings. Single hard copies are provided free of charge at
604 the Board's Chicago and Springfield ~~offices~~Offices.

605

606 2) A yearly hard copy subscription may be purchased, at a cost of \$20 to
607 ~~defray~~defer reproduction and distribution charges, by contacting the
608 Board's Chicago office. Government entities and not-for-profit
609 organizations properly categorized as such under the Internal Revenue
610 Code may request a free hard copy subscription to the Environmental
611 Register. Proof of organizational status is required.

612

613 3) The Environmental Register is provided free of charge on the Board's Web
614 ~~site~~Home Page (see as described at Section 2175.310 of this Part).

615

616 b) Opinions, Orders, Regulations

617

618 1) Copies of opinions and orders of the Board are available upon request as
619 provided at Section 2175.205 of this Part, including through the Board's
620 Web site (see Section 2175.310 of this Part)(a).

621

622 2) The Board's opinions and orders are also available through various
623 commercial services including LEXIS and Westlaw.

624

625 3) The Board's regulations are published in the Illinois Register (see Section
626 2175.305(d) of this Part) and by various commercial services. They are
627 also published periodically by the Agency by subtitle and are available in
628 hard copy as quantities permit free of charge from the Board's Chicago
629 office. Additionally, the Board maintains on its Web site the text of the
630 Board's regulations set forth in Title 35 of the Illinois Administrative
631 Code.

632

633 c) Annual Report

634

635 1) The Board publishes an Annual Report of the Chairman. The report
636 includes information regarding the Board's membership, regulatory and
637 case activities for the fiscal year, a summary of legislative activity
638 affecting the Board, a summary of Board decisions reviewed by the courts
639 during the fiscal year, and information on administrative activities.

640

641 2) When completed and printed, the Annual Report is available in hard copy
642 free of charge in reasonable quantities from the Board's Chicago and
643 Springfield ~~offices~~Offices. The Annual Report is also available free of
644 charge from the Board's Web site (see Section 2175.310 of this Part).

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- 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 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 peremptory regulations as required by Sections 5-45 and 5-~~5046~~ of the ~~IAPA~~ Illinois Administrative Procedure Act [5 ILCS 100/5-45 and 5/~~5046~~]. 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 ~~Illinois Environmental Protection 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~~ which sets forth rules ~~that~~ which the Board may be considering during a six-month period. This agenda ~~lists~~ is to list rules ~~before~~ in advance of 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 ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7.3] and Section 5-70(b) of the ~~IAPA~~ Illinois Administrative Procedure Act [5 ILCS 100/5-70(b)] allow the Board to publish other documents concerning its activities. These include, ~~but are not limited to,~~ notices of public hearings, and notices of proposed and adopted ~~identical-in-substance~~ rules as discussed in Section 7.2 of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7.2].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

689 **Section 2175.310 Board Web Site~~Board's Home Page on World Wide Web Internet~~**

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- a) The Board maintains a Web site with information that ~~Home Page on the World Wide Web of the Internet. The information on the Home Page is continuously updated. The Board's Home Page includes, but is not limited to,~~ the following information:
- 1) Board Members' Profiles and a Citizen's Guide to the Board;
 - 2) Environmental Register;
 - 3) Open Board Meeting and Closed Deliberative Session Dates and Agendas;
 - 4) Procedural Rules in Title 35 of the Illinois Administrative Code;
 - 5) Administrative Rules in Title 2 of the Illinois Administrative Code;
 - 6) Annual Reports;
 - 7) ~~Summary of~~ Pending Rulemakings;
 - 8) ~~Summary of~~ Recent Legislation; ~~Affecting the Board~~
 - 9) Open Board Meeting Minutes;
 - 10) The Clerk's Office On-Line (COOL); COOL is the Board's searchable electronic docketing system for rulemakings and adjudicatory cases, containing Board opinions and orders, hearing transcripts, and participant and party filings, all of which may be viewed, searched, and downloaded;
 - 11) Environmental Regulations in Title 35 of the Illinois Administrative Code;
 - 12) The Act [415 ILCS 5]; and
 - 13) Formal and informal complaint forms.
- b) The information on the Board's Web site~~Home Page~~ can be downloaded free of Board charges. The Web site~~Home Page~~ can be accessed through the Internet using any commercially available on-line service. The Web site~~Home Page~~ can be accessed directly ~~at~~via the following electronic address:

<http://www.ipcb.state.il.us>~~<http://www.state.il.us/pcb/pcbhp.htm>~~

732 c) The Board's Web site~~Home Page~~ can also be accessed through the State of Illinois
 733 Web site~~Home Page~~ (under the "Agencies" option) at the following electronic
 734 address:

735
 736 <http://www.illinois.gov/government/agency.cfm>~~http://www.state.il.us/~~
 737

738 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
 739

740 **Section 2175.315 Documents Prepared by the Clerk's Office**
 741

742 Various documents are routinely prepared by and for the Clerk's Office~~office~~ for internal use by
 743 the Board and are also available for inspection and copying. These include, ~~but are not limited to,~~
 744 docket sheets, listings of adjudicatory cases and rulemakings by type and status~~tracking~~ sheets.
 745 Hard copies~~Copies~~ will be available within five (5)-working days of a request at a cost of \$5.00
 746 per page.
 747

748 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
 749

750 **Section 2175.320 Requests for Information**
 751

752 a) Informal requests for information may be made to any Board office. Informal
 753 requests will be filled promptly upon receipt of the request. However, where a
 754 request for information maintained by the Clerk's Office is made at a Board office
 755 other than the Chicago office, some delay may be necessary to allow for the
 756 Clerk's Office~~office~~ to provide the material. Inspection of documents can only
 757 take place at the Clerk's Office.
 758

759 b) A formal request for information pursuant to ~~the Freedom of Information Act~~
 760 (FOIA) must~~shall~~ state that it is a formal request pursuant to FOIA. The formal
 761 request must~~shall~~ be addressed to the Clerk of the Board, who will~~shall~~ date-
 762 stamp the request upon receipt. All formal requests will be processed pursuant to
 763 the timeframe~~time frame~~ requirements set forth in FOIA. ~~The~~ FOIA requires an
 764 initial response to the request be made within seven (7)-working days of receipt of
 765 the formal request, subject to extension.
 766

767 1) Any person whose formal request is denied by the Clerk may appeal such
 768 denial by filing a written notice of appeal addressed to the Chairman of the
 769 Board. The notice of appeal must~~shall~~ include a copy of the formal
 770 request, the Clerk's denial letter, and a statement of why the person
 771 believes the denial was improper. The Chairman will determine in writing
 772 whether the Clerk's denial was proper or improper, and will notify the
 773 person within seven (7)-working days after receipt of the notice.
 774

775 2) If the Chairman affirms the denial or fails to take action within seven (7)
776 working days, the person may file suit in circuit court for injunctive or
777 declaratory relief pursuant to Section 11 of the FOIA [5 ILCS 140/11].
778

779 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

780 SUBPART D: ACCESS TO BOARD RULES

781 **Section 2175.400 Access to Board Rules in the Illinois Administrative Code**

782
783
784 a) All Board rules have been codified under Title 35 of the Illinois Administrative
785 Code since October 1983. Each general area of regulation has been assigned a
786 particular Subtitle as set out below:
787
788

SUBTITLE	SUBJECT MATTER
A	Procedural Rules
B	Air Rules
C	Water Rules
D	Mine Rules
E	Livestock Waste
F	Public Water Supplies
G	Waste Disposal
H	Noise Rules
I	Nuclear Radiation
M	Biological Materials

789
790 b) The Subtitles listed in subsection (a) of this Section, ~~above~~, also include some
791 rules of the ~~Environmental Protection Agency and the Department of Natural~~
792 ~~Resources~~. The Board's rules appear at Chapter I of each of the Subtitles.
793

794 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

795 SUBPART E: RULEMAKING

796
797 **Section 2175.500 Proposals**

798
799
800 a) Rulemaking procedures are set out in the Board's procedural rules at 35 Ill. Adm.
801 Code 102.

802
803 1) The Act provides for five types of rulemakings:
804

- 805 A) Identical-in-substance rulemakings, as defined in Sections 7.2,
806 13.3, 28.2, and 28.4 of the Act [415 ILCS 5/7.2, 13.3, 28.2, and
807 28.4] (see 35 Ill. Adm. Code 102.610);
808
809 B) Federally required rules, as defined in Section 28.2 of the Act [415
810 ILCS 5/28.2] (see 35 Ill. Adm. Code 102.Subpart E);
811
812 C) Other regulatory proposals, both of general applicability and not of
813 general applicability, as allowed by Sections 26, 27, and 28 of the
814 Act [415 ILCS 5/26, 27, and 28] (see 35 Ill. Adm. Code
815 102.Subpart B);
816
817 D) Clean Air Act fast-track rulemakings, as defined by Section 28.5 of
818 the Act [415 ILCS 5/28.5] (see 35 Ill. Adm. Code 102.Subpart C);
819 and
820
821 E) Updating incorporations by reference, as allowed by Section 28.6
822 of the Act (415 ILCS 5/28.6) (see 35 Ill. Adm. Code 102.211).
823
824 2) The IAPA provides for three types of rulemakings:
825
826 A) General rulemaking pursuant to Section 5-40 of the IAPA [5 ILCS
827 100/5-40], which includes first notice and second notice (see 35 Ill.
828 Adm. Code 102.600-102.608);
829
830 B) Emergency rulemaking pursuant to Section 5-45 of the IAPA [5
831 ILCS 100/5-45] (see 35 Ill. Adm. Code 102.612); and
832
833 C) Peremptory rulemaking pursuant to Section 5-50 of the IAPA [5
834 ILCS 100/5-50] (35 Ill. Adm. Code 102.614).
835
836 b) Proposals for the adoption, amendment, or repeal of a substantive regulation may
837 be made by the ~~Environmental Protection Agency (Agency)~~, the Illinois
838 Department of Natural Resources (Department), the Board, or any member of the
839 public. Only the Agency may propose a Clean Air Act fast-track rulemaking [415
840 ILCS 5/28.5]. Proposals made by the Agency, Department, or Board are
841 automatically scheduled for hearings.
842
843 c) In the case of a proposal made by a member of the public, the proposal must be
844 accompanied by a petition signed by 200 persons, specifying home addresses,
845 unless that requirement is waived by the Board. When the proposal is
846 accompanied by a petition, the matter is placed on the agenda for Board decision.
847 Generally, the Board will authorize a hearing unless it determines that the

848 proposal is plainly devoid of merit, or deals with a subject on which a hearing has
849 been held within the preceding six months, or is not accompanied by an adequate
850 statement of supporting reasons. The proponent will be notified of an adverse
851 decision and of the reasons for such a decision.

852

853 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

854

855 **Section 2175.505 Initial Hearing**

856

857 a) All hearings on regulatory proposals are conducted according to the Board's
858 procedural rules at 35 Ill. Adm. Code 102. These hearings are open to the public,
859 and at such hearings, the public is permitted to examine the record, examine
860 witnesses ~~(except as limited by the Hearing Officer)~~, testify, and submit evidence,
861 except as limited by the Hearing Officer or Board procedural rule.

862

863 b) Unless otherwise directed by the Hearing Officer or the Board, the rulemaking
864 record remains open for written public comment for a minimum of 14 days
865 following the Board's receipt ~~of the hearing transcript~~. Any person may
866 make a written submission on the proposal within this period or during the first
867 notice period pursuant to the ~~Administrative Procedure Act (IAPA)~~ [5 ILCS 100].

868

869 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

870

871 **Section 2175.510 First Notice**

872

873 a) The Board may adopt a proposed rule for first notice pursuant to Section 5-40 of
874 the ~~APA~~ IAPA at any time after a regulatory proceeding is initiated [5 ILCS
875 100/5-40]. The proposed rules are filed with the Secretary of State for first-notice
876 publication in the Illinois Register. Generally, the Board does not proceed to first
877 notice until merit and economic hearings have concluded and comments have
878 been received unless there is a need to proceed more expeditiously.

879

880 b) The public has a right to comment on the proposed rules during the first-notice
881 period and retains all other rights set out in Section 5-40 of the IAPA [5 ILCS
882 100/5-40].

883

884 c) Pursuant to Section 28 of the ~~Illinois Environmental Protection Act~~, the Board
885 may, after hearing in general, revise the proposed regulation before adoption
886 without conducting further hearings [415 ILCS 5/28].

887

888 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

889

890 **Section 2175.515 Second Notice**

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- a) Upon termination of the first-notice period, the Board may adopt the proposal for second notice pursuant to Section 5-40 of the ~~APA~~IAPA [5 ILCS 100/5-40], for review by the Joint Committee on Administrative Rules (JCAR).
- b) After the second-notice period has commenced, the proposed rules will only be amended in response to JCAR recommendations.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.520 Adopted Rules

- a) At the conclusion of the second-notice period, the Board may adopt a final opinion and order adopting the new or amended rules and setting forth the reasons for adoption.
- b) The adopted rules are then filed with the Secretary of State and are published in the Illinois Register along with supporting information.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.525 Emergency Rules

Pursuant to the Illinois Emergency Management Agency Act [20 ILCS 3305/7]~~Illinois Emergency Services and Disaster Act of 1975 [65 ILCS 5]~~, on proclamation by the Governor, that a disaster ~~emergency~~ exists, or when the Board finds that a severe public health emergency is involved in relation to any proposed regulation, then such regulation ~~will~~shall take effect without delay and the Board may proceed with the required economic impact hearings while the regulation continues in effect [415 ILCS 5/27(c)]. When such an emergency exists, or when the Board finds another situation exists that reasonably constitutes a threat to the public interest, safety, or welfare, the customary 45-day notice ~~period~~provision is waived; however, notice and text of the emergency rule must be published in the Illinois Register [5 ILCS 100/5-45(b)]. An emergency rule is effective for a maximum period of 150 days pursuant to Section 5-45(c) of the ~~IAPA~~AAPA [5 ILCS 100/5-45(c)], but it may be adopted as a permanent rule by following usual rulemaking procedures.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.530 Peremptory Rules

When the Board is required by federal law, federal rules and regulations, or by a court order to adopt a certain rule, that rule need not be published in the Illinois Register until it has been adopted pursuant to Section 5-50 of the ~~IAPA~~AAPA [5 ILCS 100/5-50]. However, notice and text

934 of the adopted rule must be published in the Illinois Register pursuant to Section 5-70 of the
 935 APA [5 ILCS 100/5-70].

936

937 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

938

939 **Section 2175.535 Rules Identical-In-Substance to Adoption of Federal Regulations**

940

941 a) The Board adopts regulations in the following programs pursuant to Section 7.2
 942 of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/7.2] that are identical-
 943 in-substance to federal regulations and which are exempt from Sections 5-35 and
 944 5-40 of the ~~IAPA~~ Illinois Administrative Procedure Act [5 ILCS 100/5-35 and 5-
 945 40]:

946

947 1a) Exemptions from the definition of volatile organic material: Section
 948 9.1(e) of the ~~Illinois Environmental Protection Act~~ [415 ILCS 5/9.1(e)],

949

950 2b) Underground injection control (UIC): Section 13(c) of the ~~Illinois~~
 951 ~~Environmental Protection Act~~ [415 ILCS 5/13(c)],

952

953 3e) Wastewater pretreatment: Section 13.3 of the ~~Illinois Environmental~~
 954 ~~Protection Act~~ [415 ILCS 5/13.3],

955

956 4d) Safe Drinking Water Act (SDWA): Section 17.5 of the ~~Illinois~~
 957 ~~Environmental Protection Act~~ [415 ILCS 5/17.5],

958

959 5e) Resource Conservation and Recovery Act (RCRA), Subtitle C, hazardous
 960 waste (~~RCRA Subtitle C~~): Section 22.4(a) of the ~~Illinois Environmental~~
 961 ~~Protection Act~~ [415 ILCS 5/22.4(a)],

962

963 6f) ~~RCRA~~ Resource Conservation and Recovery, Illinois Environmental
 964 Protection Act, Subtitle I, underground storage tank (UST): Section
 965 22.4(d) of the ~~Illinois Environmental Protection Act~~ [415 ILCS 22.4(d)],

966

967 7g) ~~RCRA~~ Resource Conservation and Recovery Act, Subtitle D municipal
 968 solid waste landfills (~~RCRA Subtitle D~~): Section 22.40(a) of the ~~Illinois~~
 969 ~~Environmental Protection Act~~ [415 ILCS 5/22.40(a)].

970

971 b) Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] provides timetables for rule
 972 adoption, but generally the Board must adopt rules within one year after the
 973 United States Environmental Protection Agency's (USEPA) adoption of the
 974 corresponding federal rule. The Board adopts a proposal for public comment that
 975 is published in the Illinois Register. The Board then accepts public comments for

976 45 days, after which the Board adopts final rules that are published in the Illinois
977 Register.

978
979 c) Because Sections 5-35 and 5-40 of the IAPA (5 ILCS 100/5-35 and 5-40) do not
980 apply to identical-in-substance rulemaking under Section 7.2 of the Act (415
981 ILCS 5/7.2), the Board does not follow the IAPA's procedure of first notice,
982 second notice, and final adoption.

983
984 (Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

985
986 **Section 2175.540 Federally Required Rules**

987
988 Under Section 28.2 of the Act [415 ILCS 5/28.2], the Board may adopt a "required rule." A
989 "required rule" means a rule that is needed to meet the requirements of the federal Clean Water
990 Act, SDWA, Clean Air Act (including required submission of a State Implementation Plan), or
991 RCRA, other than a rule required to be adopted as an identical-in-substance rule (see Section
992 2175.535 of this Part) [415 ILCS 5/28.2(a)].

993
994 (Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

995
996 **Section 2175.545 Generally Applicable Rules and Site-Specific Rules**

997
998 Under Sections 27 and 28 of the Act [415 ILCS 5/27 and 28], the Board may adopt substantive
999 environmental rules of generally applicability and of site-specific applicability. Under Section
1000 26 of the Act [415 ILCS 5/26], the Board may adopt such procedural rules as may be necessary
1001 to accomplish the purposes of the Act.

1002
1003 (Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

1004
1005 **Section 2175.550 Clean Air Act Fast-Track Rulemaking**

1006
1007 Under Section 28.5 of the Act [415 ILCS 5/28.5], the Board may adopt rules proposed by the
1008 Agency that are required to be adopted by the State under the Clean Air Act as amended by the
1009 Clean Air Act Amendments of 1990 (CAAA). A "fast-track" rulemaking proceeding is a
1010 proceeding to promulgate a rule that the CAAA requires to be adopted. For purposes of this
1011 type of rulemaking, "requires to be adopted" refers only to those regulations or parts of
1012 regulations for which USEPA is empowered to impose sanctions against the State for failure to
1013 adopt such rules [415 ILCS 5/28.5(a) and (c)].

1014
1015 (Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

1016
1017 **Section 2175.555 Updating Incorporations By Reference**

1018

1019 Under Section 28.6 of the Act [415 ILCS 5/28.6], the Board may update an incorporation by
1020 reference included in a Board rule without conducting hearings if no objection is filed or hearing
1021 is requested during the first-notice period pursuant to Section 5-40 of the IAPA [5 ILCS 100/5-
1022 40]. Such rulemaking is limited to replacing a reference in a Board rule to an older or obsolete
1023 version of an incorporated document with a reference to the current version of that document or
1024 its successor document.

1025

1026 (Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

1027

1028 SUBPART F: ADJUDICATORY PROCEEDINGS

1029

1030 **Section 2175.600 Adjudicatory Proceedings**

1031

1032 a) The Board is authorized to hear the following types of adjudicatory cases: (See 35
1033 Ill. Adm. Code 101-~~130~~120 for procedural rules governing the processing of these
1034 cases.)

1035

1036 1) Enforcement Action. The Illinois Attorney General, any State's Attorney,
1037 or any person may initiate an enforcement action by the filing of a
1038 complaint pursuant to Section 31 of the Illinois Environmental Protection
1039 Act [415 ILCS 5/31].

1040

1041 2) Permit Appeal. Any person who, pursuant to Section 39 of the Act [415
1042 ILCS 5/39], has been denied a permit by the Agency, or who has been
1043 issued a permit by the Illinois Environmental Protection Agency pursuant
1044 to Section 39 of the Illinois Environmental Protection Act [415 ILCS
1045 5/39] with one or more conditions to which that person objects, may file a
1046 petition with the Board for a review of the Agency's action. If the Agency
1047 grants a RCRA permit for a hazardous waste disposal site or grants or
1048 denies a National Pollutant Discharge Elimination System (NPDES)
1049 permit, certain third parties may petition the Board for a hearing to contest
1050 the decision of the Agency [415 ILCS 5/40(b), (e)(1)]. (See 35 Ill. Adm.
1051 Code 105.)

1052

1053 3) Pollution Control Facility Siting Review. An applicant for local siting
1054 approval of a pollution control facility who has been denied such approval
1055 or granted conditional approval by a county board or the governing body
1056 of a municipality or third party who participated in the public hearing
1057 conducted by a county board or the governing body of a municipality may
1058 contest that decision by filing a petition for hearing pursuant to Section
1059 40.1(a) of the Illinois Environmental Protection Act [415 ILCS 5/40.1(a)].
1060 A third party who participated in the public hearing conducted by a county
1061 board or the governing body of a municipality may contest a grant of local

- 1062 siting approval by filing a petition for hearing pursuant to Section 40.1(b)
 1063 of the Act [415 ILCS 5/40.1(b)]. (See 35 Ill. Adm. Code 107.)
 1064
- 1065 4) Variances/Adjusted Standards. Any person adversely affected by a Board
 1066 rule or order may file a petition for a variance or adjusted standard
 1067 pursuant to Section 37 of the Illinois Environmental Protection Act [415
 1068 ILCS 5/37] or a petition for an adjusted standard pursuant to Section 28.1
 1069 of the Act [415 ILCS 5/28.1]. (See 35 Ill. Adm. Code 104.)
 1070
- 1071 5) Trade Secret Determination. Any person who is adversely affected by a
 1072 trade secret determination made by the Illinois Environmental Protection
 1073 Agency or the Illinois Department of Natural Resources may contest that
 1074 determination before the Board. (See 35 Ill. Adm. Code 130.)
 1075
- 1076 6) Appeal of Office of the State Fire Marshal (OSFM) UST Fund Denial of
 1077 Eligibility or Deductibility Determination to UST Program. Owners or
 1078 operators of USTs underground storage tanks who have been denied
 1079 eligibility by the OSFM to access the UST underground storage tank
 1080 reimbursement fund, or who disagree with an OSFM determination of the
 1081 applicable deductible for UST Fund reimbursement, by the Office of State
 1082 Fire Marshal may petition for review pursuant to Section 57.9(c) of the
 1083 Illinois Environmental Protection Act [415 ILCS 5/57.9(c)]. (See 35 Ill.
 1084 Adm. Code 105.)
 1085
- 1086 7) Appeal of Agency Decisions Regarding UST Program. Owners or
 1087 operators of USTs underground storage tanks who have been denied
 1088 requested UST Fund reimbursement or UST cleanup approvals by the
 1089 Agency may petition for review pursuant to Section 40 of the Illinois
 1090 Environmental Protection Act [415 ILCS 5/40]. (See 35 Ill. Adm. Code
 1091 105.)
 1092
- 1093 8) Tax Pollution Control Facility Certifications. Under the Property Tax
 1094 Code, the Board may issue a certificate finding that a facility is a
 1095 "pollution control facility" or that a device is a "low sulfur dioxide
 1096 emission coal fueled device" for property tax purposes [35 ILCS 200/11-
 1097 10, 11-40]. A person seeking a tax certificate must first submit an
 1098 application to the Agency. The Agency is then required to file with the
 1099 Board a recommendation on whether the Board should issue the
 1100 certificate. An applicant who wishes to contest an Agency
 1101 recommendation that the Board deny tax certification may file a petition
 1102 with the Board. (See 35 Ill. Adm. Code 125.) Application for a pollution
 1103 control facility certificate demonstrating that a particular facility is entitled
 1104 to tax treatment as a pollution control facility as defined in Section 11-10

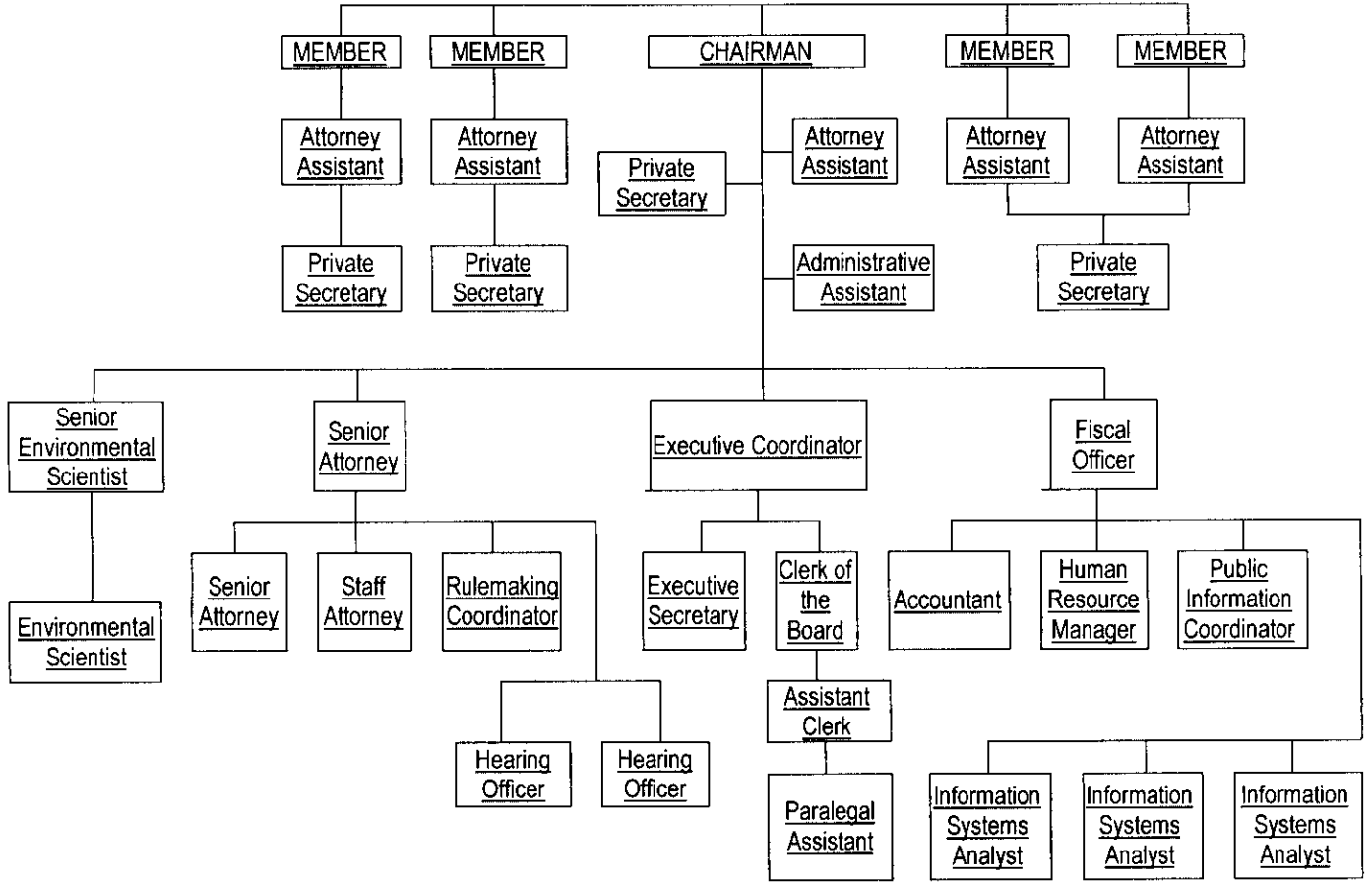
- 1105 of the Property Tax Code may be filed with the Board pursuant to Sections
1106 11-25 and 11-30 of that Code [~~35 ILCS 200/11-25 and 11/30~~].
1107
1108 9) Administrative Citations. The Agency or a unit of local government
1109 delegated authority by the Agency, may issue administrative citations for
1110 violations of the ~~Illinois Environmental Protection Act, Section 21(o) and~~
1111 ~~(p) of the Act [415 ILCS 5/21(o) and (p)]~~, and ~~These~~ these citations
1112 ~~are~~ shall be enforceable by filing copies with the Board pursuant to Section
1113 31.1 of the ~~Illinois Environmental Protection Act [415 ILCS 5/31.1]~~. The
1114 respondent named in the administrative citation may file a petition for
1115 review with the Board. (See 35 Ill. Adm. Code 108.)
1116
1117 10) Water Well Setback Exceptions. A water well owner may petition the
1118 Board for an exception from the water well setback requirements of the
1119 ~~Illinois Environmental Protection Act~~ by filing a petition with the Board
1120 ~~and the Agency~~ pursuant to Section 14.2 of the ~~Illinois Environmental~~
1121 ~~Protection Act [415 ILCS 5/14.2]~~. (See 35 Ill. Adm. Code 106.)
1122
1123 11) Other. Any other proceedings ~~which are~~ authorized by the ~~Illinois~~
1124 ~~Environmental Protection Act~~ or ~~the Board's~~ procedural rules may be
1125 brought before the Board pursuant to statutory authority and any Board
1126 regulations adopted thereunder.
1127
1128

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

1129 **Section 2175.APPENDIX A Organizational Chart**

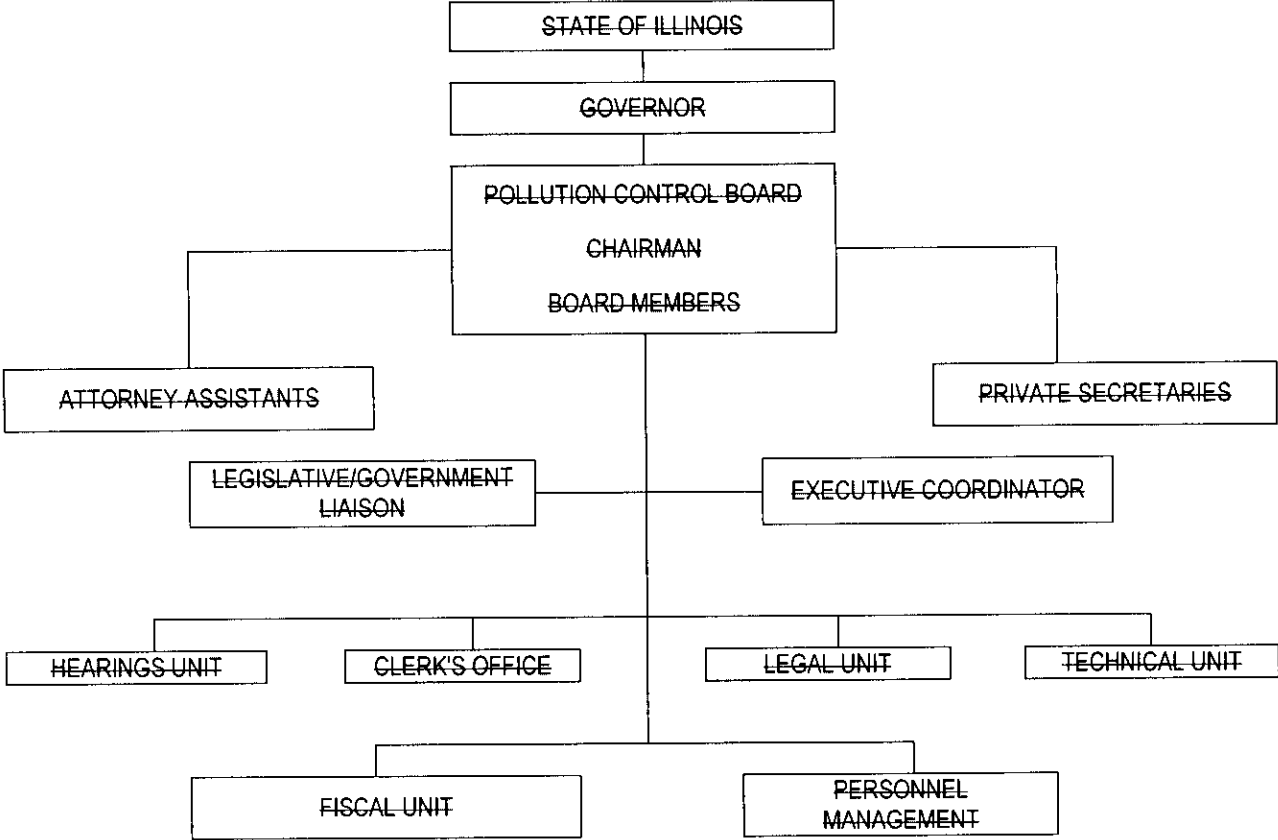
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(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)