
ILLINOIS

REGISTER



PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

January 4, 2019 Volume 43, Issue 1

PROPOSED RULES

CAPITAL DEVELOPMENT BOARD	
Board Action	
71 Ill. Adm. Code 10.....	1
Trust Agreements - Using Educational Agencies	
71 Ill. Adm. Code 30.....	9
EMPLOYMENT SECURITY, DEPARTMENT OF	
Claims, Adjudication, Appeals and Hearings	
56 Ill. Adm. Code 2720.....	15
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Residential Mortgage License Act of 1987	
38 Ill. Adm. Code 1050.....	18
Rules of Practice in Administrative Hearings	
68 Ill. Adm. Code 1110.....	43
Home Inspector License Act	
68 Ill. Adm. Code 1410.....	81
Auction License Act	
68 Ill. Adm. Code 1440.....	93
NATURAL RESOURCES, DEPARTMENT OF	
Revocation Procedures for Conservation Offenses	
17 Ill. Adm. Code 2530.....	115
OFFICE OF THE STATE FIRE MARSHAL	
Fire Prevention and Safety	
41 Ill. Adm. Code 100.....	125
Permanently Moored Craft Fire Prevention and Safety	
41 Ill. Adm. Code 149.....	148
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS	
The Administration and Operation of the State Employees' Retirement System of Illinois	
80 Ill. Adm. Code 1540.....	159

ADOPTED RULES

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF	
Licensing Standards for Day Care Homes	
89 Ill. Adm. Code 406.....	187
Licensing Standards for Day Care Centers	
89 Ill. Adm. Code 407.....	224
Licensing Standards for Group Day Care Homes	
89 Ill. Adm. Code 408.....	265
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Illinois Credit Union Act	
38 Ill. Adm. Code 190.....	303

HUMAN SERVICES, DEPARTMENT OF	
Temporary Assistance for Needy Families	
89 Ill. Adm. Code 112.....	327
Aid to the Aged, Blind or Disabled	
89 Ill. Adm. Code 113.....	343
Supplemental Nutrition Assistance Program (SNAP)	
89 Ill. Adm. Code 121.....	360
INSURANCE, DEPARTMENT OF	
Prior Notification of Transactions	
50 Ill. Adm. Code 654.....	373
Correlated Sales of Life Insurance and Mutual Funds (Repealer)	
50 Ill. Adm. Code 910.....	386
Minimum Standards of Individual Accident and Health Insurance	
50 Ill. Adm. Code 2007.....	388
Business Entities (Repealer)	
50 Ill. Adm. Code 3115.....	407
Producer Licensing	
50 Ill. Adm. Code 3121.....	409
Payment of Annual Compliance Fees for Pension Funds	
50 Ill. Adm. Code 4415.....	413
Noncompliance Notification and Penalties	
50 Ill. Adm. Code 4435.....	417
Navigator, In-Person Counselor and Certified Application Counselor Certification	
50 Ill. Adm. Code 4515.....	422
OFFICE OF THE STATE TREASURER	
Rules for Charitable Trust Stabilization Committee	
74 Ill. Adm. Code 650.....	437
POLLUTION CONTROL BOARD	
Emissions Reduction Market System	
35 Ill. Adm. Code 205.....	441
Hazardous Waste Management System: General	
35 Ill. Adm. Code 720.....	446
Identification and Listing of Hazardous Waste	
35 Ill. Adm. Code 721.....	496
Standards Applicable to Generators of Hazardous Waste	
35 Ill. Adm. Code 722.....	563
Standards Applicable to Transporters of Hazardous Waste	
35 Ill. Adm. Code 723.....	585
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	
35 Ill. Adm. Code 724.....	601
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	
35 Ill. Adm. Code 725.....	634

Standards for the Management of Used Oil	
35 Ill. Adm. Code 739.....	667
REVENUE, DEPARTMENT OF	
Income Tax	
86 Ill. Adm. Code 100.....	727
SECRETARY OF STATE	
Lobbyist Registration and Reports	
2 Ill. Adm. Code 560.....	751
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS	
The Administration and Operation of the State Employees' Retirement System of Illinois	
80 Ill. Adm. Code 1540.....	768
STUDENT ASSISTANCE COMMISSION, ILLINOIS	
Grant Program for Dependents of Correctional Officers	
23 Ill. Adm. Code 2731.....	773
Grant Program for Dependents of Police or Fire Officers	
23 Ill. Adm. Code 2732.....	780
EMERGENCY RULES	
AGING, DEPARTMENT ON	
Adult Protection and Advocacy Services	
89 Ill. Adm. Code 270.....	787
EMPLOYMENT SECURITY, DEPARTMENT OF	
Claims, Adjudication, Appeals and Hearings	
56 Ill. Adm. Code 2720.....	808
AGENCY REFUSAL IN RESPONSE TO A STATEMENT OF OBJECTION AND RECOMMENDATION	
POLLUTION CONTROL BOARD	
Emissions Reduction Market System	
35 Ill. Adm. Code 205.....	818
AGENCY AGREEMENT IN RESPONSE TO A STATEMENT OF OBJECTION	
HUMAN SERVICES, DEPARTMENT OF	
Temporary Assistance for Needy Families	
89 Ill. Adm. Code 112.....	821
NOTICE OF REQUEST FOR EXPEDITED CORRECTION	
AGRICULTURE, DEPARTMENT OF	
Industrial Hemp Pilot Program	
8 Ill. Adm. Code 1100.....	822
NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS	
RACING BOARD, ILLINOIS	
Illinois Race Track Rules for Fire Safety (Withdrawal)	
11 Ill. Adm. Code 403.....	823
REGULATORY AGENDA	
COMMUNITY COLLEGE BOARD, ILLINOIS	
Administration of the Illinois Public Community College Act	
23 Ill. Adm. Code 1501.....	824

CORRECTIONS, DEPARTMENT OF	
Public Information, Rulemaking and Organization	
2 Ill. Adm. Code 850.....	829
ENVIRONMENTAL PROTECTION AGENCY, ILLINOIS	
Public Participation in the Air Pollution Control Permit Program	
35 Ill. Adm. Code 252.....	840
HEALTH FACILITIES AND SERVICES REVIEW BOARD, ILLINOIS	
Narrative and Planning Policies	
77 Ill. Adm. Code 1100.....	848
HUMAN RIGHTS COMMISSION, ILLINOIS	
Procedural Rules	
56 Ill. Adm. Code 5300.....	850
NATURAL RESOURCES, DEPARTMENT OF	
Public Use of State Parks and Other Properties of the Department of	
Natural Resources	
17 Ill. Adm. Code 110.....	851
OFFICE OF THE ATTORNEY GENERAL	
Hospital Financial Assistance under the Fair Patient Billing Act	
77 Ill. Adm. Code 4500.....	869
POLLUTION CONTROL BOARD	
Definitions and General Provisions	
35 Ill. Adm. Code 211.....	870
PUBLIC HEALTH, DEPARTMENT OF	
Home Health, Home Services, and Home Nursing Agency Code	
77 Ill. Adm. Code 245.....	894
STATE UNIVERSITIES RETIREMENT SYSTEM	
Universities Retirement	
80 Ill. Adm. Code 1600.....	928
STUDENT ASSISTANCE COMMISSION, ILLINOIS	
General Provisions	
23 Ill. Adm. Code 2700.....	931
TRANSPORTATION, DEPARTMENT OF	
Aviation Safety	
92 Ill. Adm. Code 14.....	936

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2019

Issue#	Rules Due Date	Date of Issue
1	December 26, 2018	January 4, 2019
2	December 31, 2018	January 11, 2019
3	January 7, 2019	January 18, 2019
4	January 14, 2019	January 25, 2019
5	January 22, 2019	February 1, 2019
6	January 28, 2019	February 8, 2019
7	February 4, 2019	February 15, 2019
8	February 11, 2019	February 22, 2019
9	February 19, 2019	March 1, 2019
10	February 25, 2019	March 8, 2019
11	March 4, 2019	March 15, 2019
12	March 11, 2019	March 22, 2019
13	March 18, 2019	March 29, 2019
14	March 25, 2019	April 5, 2019
15	April 1, 2019	April 12, 2019
16	April 8, 2019	April 19, 2019
17	April 15, 2019	April 26, 2019
18	April 22, 2019	May 3, 2019
19	April 29, 2019	May 10, 2019
20	May 6, 2019	May 17, 2019
21	May 13, 2019	May 24, 2019
22	May 20, 2019	May 31, 2019

23	May 28, 2019	June 7, 2019
24	June 3, 2019	June 14, 2019
25	June 10, 2019	June 21, 2019
26	June 17, 2019	June 28, 2019
27	June 24, 2019	July 5, 2019
28	July 1, 2019	July 12, 2019
29	July 8, 2019	July 19, 2019
30	July 15, 2019	July 26, 2019
31	July 22, 2019	August 2, 2019
32	July 29, 2019	August 9, 2019
33	August 5, 2019	August 16, 2019
34	August 12, 2019	August 23, 2019
35	August 19, 2019	August 30, 2019
36	August 26, 2019	September 6, 2019
37	September 3, 2019	September 13, 2019
38	September 9, 2019	September 20, 2019
39	September 16, 2019	September 27, 2019
40	September 23, 2019	October 4, 2019
41	September 30, 2019	October 11, 2019
42	October 7, 2019	October 18, 2019
43	October 15, 2019	October 25, 2019
44	October 21, 2019	November 1, 2019
45	October 28, 2019	November 8, 2019
46	November 4, 2019	November 15, 2019
47	November 12, 2019	November 22, 2019
48	November 18, 2019	December 2, 2019
49	November 25, 2019	December 6, 2019
50	December 2, 2019	December 13, 2019
51	December 9, 2019	December 20, 2019
52	December 16, 2019	December 27, 2019

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Board Action
- 2) Code Citation: 71 Ill. Adm. Code 10
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
10.105	New Section
10.110	Amendment
10.120	Amendment
10.130	Amendment
10.150	Amendment
10.160	Amendment
10.170	Amendment
10.200	Amendment
10.210	New Section
10.220	New Section
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a definitions Section, a Section on public comments at open meetings, and a Section on the informal recording of meetings. This rulemaking removes language regarding meeting agendas and meeting minutes and public notice of special, reconvened, and rescheduled meetings, the requirements for which are in the Open Meetings Act, 5 ILCS 120. Finally, the rulemaking allows the Capital Development Board to file a lawsuit or an appeal without prior Board authorization under certain circumstances provided that the Board is given the opportunity to vote on the action at the next meeting.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(6)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking in writing for a period of 45 days following publication of this Notice. All comments must be in writing and should be addressed to:

Lauren Noll
Deputy General Counsel
Capital Development Board
401 S. Spring Street
3rd Floor Stratton Building
Springfield IL 62706

217/782-0700
lauren.noll@illinois.gov
fax: 217/524-0565

Comments submitted by small business should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: Volume 42, Issue 1 of the *Illinois Register*, dated January 5, 2018.

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULESPART 10
BOARD ACTION

Section

10.105	Definitions
10.110	General Policy
10.120	Schedule and Notice
10.130	Quorum
10.140	Vice-Chairperson & Secretary
10.150	Agenda and Order of Proceedings
10.160	Rules for Meeting
10.170	Board Action
10.180	Minutes
10.190	Revision of Rules (Repealed)
10.200	Litigation
10.210	Public Comment
10.220	Informal Recordings of Board Meetings

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and authorized by Sections 2.05 and 2.06 of the Open Meetings Act [5 ILCS 120].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1980, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20240, effective October 1, 1984; amended at 20 Ill. Reg. 15226, effective November 15, 1996; amended at 21 Ill. Reg. 7114, effective May 20, 1997; amended at 43 Ill. Reg. _____, effective _____.

Section 10.105 Definitions

"Board" means the Capital Development Board as created in Section 5 of the Capital Development Board Act [20 ILCS 3105] or, if applicable, its designee.

"Executive Director" means the individual appointed by the Board to serve as the chief executive officer of the Board.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 10.110 General Policy

- a) The Board shall conduct itself in accordance with the Open Meetings Act [5 ILCS 120] and all decisions of the Board shall be made pursuant to deliberations open to the public except to the extent permitted by Section ~~2(c)1.02~~ of the Open Meetings Act.
- b) It is the policy of the Board to permit public participation at all public meetings of the Board.
- c) ~~The public shall have free access to the agenda of all open meetings of the Board. Any person may, upon application to the Board, receive such agenda as they are promulgated from time to time.~~
- d) ~~The public shall have free access to minutes of open meetings of the Board and closed meeting minutes released pursuant to Section 2.06 of the Open Meetings Act. Any person may receive copies thereof on payment of the cost of reproduction. The charge assessed shall be based on the reproduction charges set forth in 2 Ill. Adm. Code 1651, App. B.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.120 Schedule and Notice

- a) Regular Meetings. ~~Prior to the beginning of each fiscal year, the~~The Board shall adopt ~~prior to the beginning of each fiscal year~~ a schedule of all its regular meetings. ~~That schedule which~~ shall appear at least once in its minutes. The schedule shall include the dates, times and places of ~~thesuch~~ meetings. This schedule shall be posted at the Board's executive office in Springfield ~~and on its website~~. A copy of the schedule shall be sent to all parties requesting a copy. Requests should be mailed to: Executive Director, Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706. Requests are valid for one year after the date of receipt.
- b) Special Meetings. Upon the request of ~~two~~ or more members of the Board, one of whom may be the Chairperson, the Board may hold a special meeting on call of the Chairperson. ~~TheSuch~~ request of ~~two~~ or more members shall be evidenced

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

in written application to the Chairperson. At least 48 hours written notice of the special meeting shall be given to the members. ~~The~~Such written notice shall be promulgated by the Executive Director upon direction of the Chairperson and shall be sent to each member by ~~e-mail~~facsimile transmission.

- e) ~~Public Notice. Public notice of all special meetings, rescheduled regular meetings or any reconvened meetings shall be given at least 48 hours in advance of each meeting by posting a copy of the notice at the Board's executive office, and by mailing to any person having made application.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.130 Quorum

Four members of the Board shall constitute a quorum, and affirmative votes of a majority of those present shall be required for any final determination of the Board. The Chairperson shall have and exercise the same right and power to vote as other members. Neither the absence of the Chairperson or Vice-Chairperson nor any vacancy in the membership shall impair the right of a quorum of the members to exercise all of the rights and powers of, and to perform all of the duties of, the Board.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.150 ~~Agenda and Order of Proceedings~~

~~a)At least seven days prior to each regular meeting, the Executive Director shall promulgate to the members an agenda for the forthcoming meeting, provided that delay in promulgation of the agenda for any meeting or any item thereof shall not affect the validity of any action taken at that meeting.b)Requests for inclusion of items on the agenda by any interested party shall be submitted to the Executive Director in writing at least 14 days prior to the date of each regular meeting.c)The Board shall maintain a record of public requests to include items on the agenda, noting whether or not the request was honored.d)The Executive Director shall decide which items are included in the agenda for each meeting. In creating the agenda, the Executive Director shall give priority to items that promote the Capital Development Board's operations and mission. The following criteria shall be followed to determine whether or not a public request for inclusion shall be honored:~~

- 1) ~~whether a public or private interest is furthered by the request;~~

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) ~~whether a past, present or future Board project is to be the subject matter of the request;~~
- 3) ~~whether litigation by or against the Board is involved;~~
- 4) ~~length of agenda at the time the request is made; and,~~
- 5) ~~any other criteria which may be appropriate under the circumstances.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.160 Rules for Meeting

Meetings of the Board, and actions considered, shall be according to generally accepted principles of parliamentary order. ~~In the event of questions, Robert's Rules of Order (1893 ed.) shall govern.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.170 Board Action

- a) All final actions of the Board shall be evidenced by written resolution or memorandum ~~that, which~~ shall be incorporated into the minutes of the meeting at which ~~thesuch~~ action was taken. All resolutions and memorandums proposed but not adopted shall be incorporated into the minutes of the meeting at which ~~the~~ ~~such~~ resolution or memorandum was considered. For purposes of this Section, a memorandum shall be defined as a document or documents that clearly indicate what the Board is being asked to approve. For example, a list of change orders submitted for Board approval shall suffice.
- b) Use of resolution format shall be restricted to highly important complex policy issues, when greater formality and permanence in force are desired, ~~or for~~ ~~courtesy purposes~~. Routine matters such as meeting schedules, ~~budgets~~, and requests for approval of contract provisions should be presented in memorandum form. Board approvals that are redundant of matters required by law shall not be in resolution format.
- c) Resolutions intended for short duration should contain an automatic repealer.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- d) Resolutions may be relegated to historic status as may be appropriate. Courtesy resolutions should be designated as such, and will immediately and automatically be classified as historic.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.200 Litigation

- a) The Executive Director and the Office of Legal Counsel~~Executive staff~~ shall not, without prior authorization of the Board:
- 1) commence litigation;
 - 2) engage counsel for the purpose of appearing on behalf of the Capital Development Board to prosecute any lawsuit;
 - 3) incur any obligation for attorney's fees, witness fees or court costs in connection with any lawsuit in which the Board is the plaintiff;
 - 4) authorize settlement of a pending lawsuit; or
 - 5) file an appeal.
- b) Nothing in this Section~~herein~~ shall be construed to preclude the Executive Director from referring any lawsuits filed against the Board to the Office of the Attorney General for defense ~~thereof~~, nor to preclude the Executive Director from approving a Court of Claims stipulation in an action brought to recover the balance of a lapsed contractual obligation.
- c) If litigation or an appeal must commence before the next regularly scheduled Board meeting and adequate opportunity was not provided to the Executive Director or the Office of Legal Counsel to obtain Board authorization, the Executive Director or Office of Legal Counsel may file litigation or appeal provided that the Board is given the opportunity to ratify the filing or vote to have the matter withdrawn at the next Board meeting.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 10.210 Public Comment

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Prior to commencement of a closed session or, if there is no closed session, prior to adjournment of the meeting, the public shall have the opportunity to address the Board.
- b) During the time period designated for public remarks, any person physically present, once recognized by the Chairman, may make public remarks to the Board. Each person shall have a 5 minute time limit for remarks.

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 10.220 Informal Recordings of Board Meetings

Any person may record a Board meeting by tape, film, or any other means if the recording process does not interfere with the conduct or decorum of the Board meeting. The Chairman, or person acting in his or her stead, may direct any person who is recording a Board meeting to limit or discontinue the recording if the recording process interferes with the conduct or decorum of the Board meeting.

(Source: Added at 43 Ill. Reg. _____, effective _____)

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Trust Agreements – Using Educational Agencies
- 2) Code Citation: 71 Ill. Adm. Code 30
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
30.110	Amendment
30.120	Amendment
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates the definitions of "using educational agencies" and "securities of the type utilized to collateralize deposits by the Treasurer of the State of Illinois" and removes the Executive Director's authority to waive application of the rules for Capital Development Board projects commenced prior to July 27, 1978.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(6)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views or arguments concerning this proposed rulemaking in writing for a period of 45 days following publication of this Notice. All comments must be in writing and should be addressed to:

Lauren Noll
Deputy General Counsel
Capital Development Board

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

401 S. Spring Street
3rd Floor Stratton Building
Springfield IL 62706

217/782-0700
lauren.noll@illinois.gov
fax: 217/524-0565

Comments submitted by small business should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2018

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

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY
CHAPTER I: CAPITAL DEVELOPMENT BOARD
SUBCHAPTER a: RULES

PART 30

TRUST AGREEMENTS – USING EDUCATIONAL AGENCIES

Section

30.110 Trust Agreements – Using Educational Agencies

30.120 Funding of Trust Agreement – Schedule

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1980, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20360, effective October 1, 1984; amended at 43 Ill. Reg. _____, effective _____.

Section 30.110 Trust Agreements – Using Educational Agencies

- a) The term "using educational agencies" means "community colleges" as defined in the Public Community College Act [110 ILCS 805]~~primary, high school and unit school districts~~ empowered to participate in the State assistance program for school construction project Grants, pursuant to Ill. Rev. Stat. 1983, ch. 127, par. 783.1 et seq.; a single school district or the administrative district formed by several school districts which provide a vocational education building program, pursuant to "The School Code" (Ill. Rev. Stat. 1983, ch. 122, par. 1-1 et seq); ~~Public Community Colleges as defined in Section 1-2(c) of the "Public Community College Act" (Ill. Rev. Stat. 1983, ch. 122, par. 101-2.c)~~ "public institutions of higher education" as defined in Section 1 of "An Act creating a Board of Higher Education, defining its power and duties, making an appropriation therefore, and repealing an Act herein named" (Ill. Rev. Stat. 1983, ch. 144, par. 181 et seq.); as all such Acts may be now or hereafter amended or modified.
- b) If the use of a trust is requested by the chief executive officer of any using educational agency and approved by the Executive Director, those monies required to be paid by law by any using educational agency to the Board for

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

~~that~~~~such~~ agency's contribution to a construction project may be deposited under a trust agreement with an Illinois bank of the agency's choice. The using educational agency shall receive any interest ~~thereon~~.

- c) Pursuant to application by the using educational agency, a trust agreement by the bank and the using educational agency shall contain as a minimum the following provisions:
- 1) The amount to be deposited subject to the trust;
 - 2) ~~That A provision that~~ earnings on the trust corpus be paid by the trustee to the using educational agency not less frequently than quarterly;
 - 3) ~~That A provision that~~ the Executive Director or alternate for this purpose designated by the Board, acting in ~~his or her~~~~their~~ official ~~capacity~~~~capacities~~, ~~is~~~~are~~ the only persons authorized to direct the trustee to make payment out of the trust;
 - 4) ~~That A provision that~~ the right of the Executive Director, or alternate for this purpose designated by the Board, to direct payment is restricted in that any ~~such~~ funds so directed shall be made payable only to: "The Order of State Treasurer of Illinois, Capital Development Board, Contributory Trust Fund";
 - 5) ~~That A provision that~~ the Bank shall pay ~~the~~~~such~~ funds within ~~two~~ (2) working days ~~after~~~~upon~~ receipt of the written directions of the Executive Director or alternate for this purpose designated by the Board, and that any agreement between the bank and the using educational agency shall in no way affect the duty of the bank to ~~so~~ pay upon demand;
 - 6) ~~That A provision that~~ the bank, as trustee, shall invest in securities of the type utilized to collateralize deposits by the Treasurer of the State of Illinois; ~~or invest in~~ time deposits, open accounts, certificates of deposit, savings accounts; or enter into a repurchase agreement.;
- A) ~~However~~~~however~~, all time deposits, open accounts, certificates of deposit, or savings accounts shall be covered by a pledge of securities (~~see subsection (e) of the type listed below~~) to cover the difference between the Federal Deposit Insurance Corporation

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

insurance and the total unsecured amount on deposit with the depositor bank of the trustee bank.

- B) A "safekeeping receipt" for ~~thosesuch~~ deposits shall be submitted to the using educational agency covering the securities pledged, and a certified statement to the effect that all monies invested have been adequately protected, shall be submitted to the Board by the bank.
- C) Should the repurchase agreement cover securities other than those ~~described~~~~listed~~ in ~~subsection (e)~~~~this section~~, ~~thosesuch~~ agreements shall also be subject to the pledge of securities provision (see subsection (c)(6)(A))~~as described in this section~~.
- d) The using educational agency shall be responsible for obtaining the written consent of the bank trustee. Any costs or service fees shall be borne by ~~thesuch~~ agency.
- e) For the purpose of this ~~Part~~~~rule~~, the term "securities of the type utilized to collateralize deposits by the Treasurer of the State of Illinois" means the classes of acceptable securities for public funds to be used by the State Treasurer (see Section 11(a) of the Deposit of State Moneys Act [15 ILCS 520])~~; direct obligations of the United States Government; general obligations of the State of Illinois; notes, bonds, debentures or participation certificates of the Federal National Mortgage Association, Federal Intermediate Credit Bank, Federal Home Loan Bank, Federal Land Bank, Illinois Building Authority, Illinois Toll Highway Commission or Illinois State Toll Highway Authority; Public Housing Authority Notes; obligations of the Export-Import Bank of Washington, DC; general obligation municipal bonds (including school districts) within the State of Illinois rated "A" or better by Moodys; and Farmers Home Administration Insured Notes provided such notes are quoted and are non-amortized.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 30.120 Funding of Trust Agreement – Schedule

- a) In the event a Board project is to be funded in part or in whole from local resources by use of a trust established under this Part, ~~thatsuch~~ trust shall be established prior to the signing of an architect or engineer contract.

CAPITAL DEVELOPMENT BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) The trust to be established shall be funded in an amount equal to 40% of each of the fees under the architect or engineer contracts to be signed plus reimbursables under each contract to cover contractual obligations through the design development phase of the project or any part of the project~~thereof~~.
- c) Approval to proceed beyond the design development stage or to advertise the first bid package of a phased bid project, whichever comes first, shall be preceded by a deposit in the trust of the balance of the local share of the total project cost.
- d) ~~The Executive Director shall have the authority in cases of fiscal hardship to waive application of this rule as to projects which have been commenced prior to July 27, 1978.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals and Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3) Section Numbers: Proposed Actions:
 2720.215 Amendment
 2720.220 Amendment
 2720.240 Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].
- 5) A Complete Description of the Subjects and Issues Involved: Explains the procedure for submitting certain documents to a referee by email. Explains which documents may not be submitted by email.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
2720.35	New Section	42 Ill. Reg. 16965; September 28, 2018
2720.100	Amendment	42 Ill. Reg. 16965; September 28, 2018
2720.130	Amendment	42 Ill. Reg. 16965; September 28, 2018
2720.1	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.5	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.7	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.10	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.11	Amendment	42 Ill. Reg. 23324; December 21, 2018

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

2720.20	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.25	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.30	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.101	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.105	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.106	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.107	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.108	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.112	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.115	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.120	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.132	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.135	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.140	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.145	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.150	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.155	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.160	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.200	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.205	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.227	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.245	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.250	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.255	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.270	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.277	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.300	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.315	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.335	Amendment	42 Ill. Reg. 23324; December 21, 2018

- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Thomas D. Chan, Acting General Counsel
 Illinois Department of Employment Security
 33 South State Street – Room 933

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

Chicago IL 60603

312/793-2338

fax: 312/793-5645

e-mail: Thomas.D.Chan@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

The proposed rulemaking may have an impact on small businesses, small municipalities and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality or not for profit corporation as part of any written comments submitted to the Department.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking has no direct effect on small businesses, small municipalities and not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: No reporting or bookkeeping is required for compliance.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: the revisions were not anticipated at the time – recent legislation.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments for this Part and begins in this issue of the *Illinois Register* on page: 808

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Residential Mortgage License Act of 1987
- 2) Code Citation: 38 Ill. Adm. Code 1050
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1050.110	Amendment
1050.210	Amendment
1050.370	Amendment
1050.490	Amendment
1050.610	Amendment
1050.920	Amendment
1050.940	Amendment
1050.950	Amendment
- 4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments will implement legislative changes on the subjects of independent loan processor licensing and advertising to the Residential Mortgage License Act of 1987. PA 100-851 authorizes exempt entity registration for purposes of sponsoring independent loan processors as licensed Mortgage Loan Originators. The proposed amendments set forth the surety bond requirement for exempt independent loan processing entity registrants. PA 100-795 revised advertising requirements to reference the Nationwide Multistate Licensing System (NMLS) and remove state-specific provisions. The proposed amendments remove conflicting state-specific provisions and clarify reference to the NMLS.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: Please review the following proposed amendments.
- C) Types of professional skills necessary for compliance: Please review the following proposed amendments.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1050

RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section

1050.100	High Risk Home Loan Definitions; Applicability
1050.110	Definitions
1050.115	Administrative Decision (Repealed)
1050.120	Assisting (Repealed)
1050.125	Commissioner (Repealed)
1050.130	Control (Repealed)
1050.132	Conviction or Convicted (Repealed)
1050.135	Document (Repealed)
1050.140	Employee (Repealed)
1050.145	First Tier Subsidiary (Repealed)
1050.150	Hearing Officer (Repealed)
1050.155	High Risk Home Loan (Repealed)
1050.157	Licensee (Repealed)
1050.160	Material (Repealed)
1050.165	Other Regulatory Agencies (Repealed)
1050.170	Party (Repealed)
1050.175	Principal Place of Business (Repealed)
1050.180	Repurchase a Loan (Repealed)
1050.185	State (Repealed)
1050.190	Servicer (Repealed)
1050.195	Points and Fees (Repealed)
1050.197	Total Loan Amount (Repealed)
1050.198	Approved Credit Counselor (Repealed)
1050.199	Home Equity Loan (Repealed)

SUBPART B: FEES

Section

1050.210	Fees
1050.220	License Fees (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1050.230 Amended License Fees – Corporate Changes (Repealed)
- 1050.240 Duplicate Original License Fees (Repealed)
- 1050.245 Loan Originator Registration Application Fee (Repealed)
- 1050.246 Loan Originator Registration Transfer Fee (Repealed)
- 1050.247 Loan Originator Registration Reactivation Fee (Repealed)
- 1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
- 1050.250 Examination Fees (Repealed)
- 1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
- 1050.260 Additional Full-Service Office Fees (Repealed)
- 1050.270 Hearing Fees (Repealed)
- 1050.280 Late Fees (Repealed)
- 1050.290 Manner of Payment (Repealed)

SUBPART C: LICENSING

Section

- 1050.310 Application for an Illinois Residential Mortgage License
- 1050.320 Application for Renewal of an Illinois Residential Mortgage License (Repealed)
- 1050.330 Waiver of License Fee
- 1050.340 Full-Service Office
- 1050.350 Additional Full-Service Office
- 1050.360 Continuing Education Requirements for Certain Employees (Repealed)
- 1050.370 Licensing of Mortgage Loan Originators

SUBPART D: OPERATIONS AND SUPERVISION

Section

- 1050.410 Net Worth
- 1050.420 Line of Credit (Repealed)
- 1050.425 Examination
- 1050.430 Late Audit Reports
- 1050.440 Escrow
- 1050.450 Audit Workpapers
- 1050.460 Selection of Independent Auditor (Repealed)
- 1050.470 Proceedings Affecting a License
- 1050.475 Change in Business Activities
- 1050.480 Change of Ownership, Control or Name or Address of Licensee
- 1050.490 Bonding Requirements

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE
BROKERAGE ACTIVITY, PURCHASING ACTIVITY,
AND MORTGAGE SERVICING ACTIVITY

Section

1050.610	Filing Requirements
1050.620	Reporting Forms
1050.630	Annual Report of Mortgage Activity
1050.640	Annual Report of Brokerage Activity
1050.650	Annual Report of Servicing Activity
1050.655	Annual Report of Purchasing Activity
1050.660	Verification

SUBPART F: LOAN DELINQUENCY EXAMINATION

Section

1050.710	Computation of National Residential Mortgage Foreclosure Rate (Repealed)
1050.720	Computation of Illinois Residential Mortgage Foreclosure Rate (Repealed)
1050.730	Excess Foreclosure Rate (Repealed)
1050.740	Loan Delinquency Hearing
1050.750	Director's Authority – Unusually High Rate (Repealed)

SUBPART G: SERVICING

Section

1050.810	New Loans
1050.820	Transfer of Servicing
1050.830	Real Property Tax and Hazard Insurance Payments
1050.840	Payment Processing
1050.850	Toll-Free Telephone Arrangement
1050.860	Payoff of Outstanding Mortgage Loan
1050.870	Compliance with Other Laws

SUBPART H: ADVERTISING

Section

1050.910	General Prohibition
1050.920	Definition of Advertisement
1050.930	Compliance with Other Laws

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1050.940 Requirements
- 1050.950 Misleading and Deceptive Advertising Prohibition

SUBPART I: LOAN BROKERAGE PRACTICES

- Section
- 1050.1010 Loan Brokerage Agreement
- 1050.1020 Loan Brokerage Disclosure Statement
- 1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

- Section
- 1050.1100 High Risk Home Loan Application Practices; Applicability
- 1050.1110 Borrower Information Document
- 1050.1120 Description of Required Documentation
- 1050.1130 Maintenance of Records (Repealed)
- 1050.1140 Loan Application Procedures
- 1050.1150 Copies of Signed Documents
- 1050.1160 Confirmation of Statements
- 1050.1170 Cancellation of Application
- 1050.1175 Loan Log
- 1050.1176 Record Retention
- 1050.1177 Required Loan Application File Documents
- 1050.1180 Ability to Repay
- 1050.1185 Verification of Ability to Pay Loan
- 1050.1186 Fraudulent or Deceptive Practices
- 1050.1187 Prepayment Penalty

SUBPART K: GENERAL LENDING PRACTICES

- Section
- 1050.1200 High Risk Home Loan Lending Practices; Applicability
- 1050.1210 Notice to Joint Borrowers
- 1050.1220 Inaccuracy of Disclosed Information
- 1050.1230 Changes Affecting Loans in Process (Repealed)
- 1050.1240 Prohibition of Unauthorized Lenders
- 1050.1250 Good Faith Requirements
- 1050.1260 Pre-paid Insurance Products and Warranties

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1050.1270	Refinancing Prohibited in Certain Cases
1050.1272	Balloon Payments
1050.1275	Financing of Certain Points and Fees
1050.1276	Payments to Contractors
1050.1277	Negative Amortization
1050.1278	Negative Equity
1050.1280	Counseling Prior to Perfecting Foreclosure Proceedings

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section

1050.1305	Approval Notice (Repealed)
1050.1310	Inconsistent Conditions Prohibited
1050.1315	Avoidance of Commitment
1050.1320	Charges to Seller
1050.1325	Intentional Delay
1050.1330	No Duplication to Borrower of Seller's Costs
1050.1335	Fees and Charges
1050.1340	Refunds on Failure to Close
1050.1345	Representative at Closing
1050.1350	Compliance with Other Laws
1050.1355	Failure to Close – Disclosure
1050.1360	Escrow Account Agreements at Closing

SUBPART M: EXEMPTION GUIDELINES

Section

1050.1410	General
1050.1420	Interpretative Guidelines

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section

1050.1510	Applicability
1050.1520	Definitions (Repealed)
1050.1530	Filing
1050.1540	Form of Documents
1050.1550	Computation of Time
1050.1560	Appearances

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1050.1570	Request for Hearing
1050.1580	Notice of Hearing
1050.1590	Service of the Notice of Hearing
1050.1595	Bill of Particulars or Motion for More Definite Statement
1050.1600	Motion and Answer
1050.1610	Consolidation and Severance of Matters – Additional Parties
1050.1620	Intervention
1050.1630	Postponement or Continuance of Hearing
1050.1640	Authority of Hearing Officer
1050.1650	Bias or Disqualification of Hearing Officer
1050.1660	Prehearing Conferences
1050.1670	Discovery
1050.1680	Subpoenas
1050.1690	Conduct of Hearing
1050.1700	Default
1050.1710	Evidence
1050.1720	Hostile Witnesses
1050.1730	Record of Proceedings
1050.1740	Briefs
1050.1750	Hearing Officer's Recommendation
1050.1760	Order of the Director
1050.1770	Rehearings and Reopening of Hearings
1050.1790	Costs of Hearing

SUBPART O: MORTGAGE AWARENESS PROGRAM

Section	
1050.1800	Applicability
1050.1810	General
1050.1820	Guidelines
1050.1830	Offer of Mortgage Awareness Program

SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section	
1050.1900	Applicability
1050.1910	Report of Default and Foreclosure Rates on Conventional Loans
1050.1920	Director's Review and Analysis

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section

- 1050.2000 Applicability
- 1050.2010 Third Party Review of High Risk Home Loans

SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2100 Mortgage Loan Originators; Applicability (Repealed)
- 1050.2110 Application for Registration (Repealed)
- 1050.2112 Evaluation of Applications (Repealed)
- 1050.2115 Examination (Repealed)
- 1050.2120 Continuing Education Requirements for Loan Originators (Repealed)
- 1050.2125 Certificate of Registration Issuance (Repealed)
- 1050.2130 Roster of Registered Loan Originators (Repealed)
- 1050.2135 Pocket Card (Repealed)
- 1050.2140 Certificate of Registration Renewal (Repealed)
- 1050.2145 Certificate of Registration Transfer Application or Inactive Notice (Repealed)
- 1050.2150 Inactive Registration Status; Reactivation (Repealed)
- 1050.2155 Temporary Permits (Repealed)
- 1050.2160 Confidential Information (Repealed)
- 1050.2165 Averments (Repealed)
- 1050.2170 Suspension or Revocation of Registration, Refusal to Renew, Fines (Repealed)
- 1050.2175 Loan Originator Hearings; Fees and Costs (Repealed)
- 1050.2180 Criminal Proceedings (Repealed)
- 1050.2185 Violations of Tax Acts (Repealed)
- 1050.2190 Disciplinary Action for Educational Loan Defaults (Repealed)
- 1050.2195 Nonpayment of Child Support (Repealed)

SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

Section

- 1050.2200 Purpose (Repealed)
- 1050.2210 Definitions (Repealed)
- 1050.2220 Registration Required (Repealed)
- 1050.2230 Exemptions (Repealed)
- 1050.2240 Application for Provisional Certificate of Registration; Contents; Amendment (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1050.2250 Issuance of Provisional Certificate of Registration; Effective Date; Conditions (Repealed)
1050.2260 Loan Origination Practices (Repealed)
1050.2270 Enforcement (Repealed)

- 1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)
1050.APPENDIX B Mortgage Ratio Worksheet (Repealed)

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19322, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3696, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1857; amended at 25 Ill. Reg. 6174, effective May 17, 2001; emergency amendment at 27 Ill. Reg. 10783, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 797, effective December 29, 2003; emergency amendment at 28 Ill. Reg. 7137, effective April 30, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 10352, effective June 29, 2004; amended at 28 Ill. Reg. 13351,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

effective September 21, 2004; amended at 29 Ill. Reg. 14808, effective September 26, 2005; amended at 29 Ill. Reg. 19187, effective November 10, 2005; amended at 34 Ill. Reg. 17339, effective October 29, 2010; amended at 36 Ill. Reg. 250, effective January 1, 2012; amended at 38 Ill. Reg. 2019, effective December 27, 2013; amended at 41 Ill. Reg. 12405, effective October 6, 2017; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 1050.110 Definitions

"Act" means the Residential Mortgage License Act of 1987 [205 ILCS 635].

"Administrative decision" means an order or action of the Director, such as assessment of a fine, denial of a license, suspension, or revocation of a license.

"Approved credit counselor" means a credit counselor approved by the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Assisting" as used in Section 1-4(o) of the Act shall not include the following activities or services when undertaken by a person in an otherwise licensed profession or occupation provided such activities or services are undertaken by such person in pursuit of such persons licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer:

Activities or services of, or incidental to, the licensed occupation or profession;

Delivery of surveys, abstracts of title, title commitments, opinions of title, draft deeds, mortgage forms or lender sales material;

Coordinating the activities associated with the borrower's completion or submission of a loan application;

Contracting or conferring with a licensed attorney, title insurance company, insurance producer, or lender as to the status of the loan application, loan commitment, title commitment, fire or extended coverage insurance, or closing requirements.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"Control" means the power to, directly or indirectly, whether acting through one or more persons, effect the voting interest of 10 percent or more of any class of the outstanding voting shares, or partnership interest, of an entity subject to the Act.

"Conviction" or "convicted" means, with respect to a criminal charge, the final judgment, or the act of receiving final judgment, on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking, with the authority delegated by the Secretary.

"Document", for purposes of Section 6-2(2) of the Act, shall include all business and financial documents and all books and records, such as, but not limited to in either type, characteristics, or function, tax returns, signature cards, writings that engage or provide information to accountants, consultants, or other agents, applications, authorizations to do business, licenses or certificates, and submissions for insurance endorsements.

"Employee" and "person employed":

As used in Section 1-4(d)(1.5) of the Act, "employee" means:

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the exempt entity:

expressly, in a writing submitted to and approved by the Director, assumes full and direct legal responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

submits to the Director for approval a written opinion of counsel stating that the relationship between the exempt entity and the natural person is one in which the exempt entity assumes full and direct responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the natural person's performance of the activity is otherwise under statute or administrative rule, subject to comprehensive regulation and supervision, regular examination of books and records and activities and administrative agency sanctions for violation of regulatory, supervisory, or examination requirements by the State of Illinois or by a federal depository institution regulator.

As used in Section 1-4(d)(3) of the Act, "person employed" means any natural person who performs activity licensable under the Act exclusively for one licensee under the Act, provided that the licensee, expressly in writing on a form approved by the Director, assumes full and direct legal responsibility for the licensable activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee.

"First tier subsidiary", as used in Section 1-4 of the Act, means a subsidiary the stock of which is directly owned by the parent corporation, without any intervening layer of ownership by another corporation.

"Hearing Officer" means an attorney licensed in the State of Illinois, other than an attorney who is a regular employee of the Division, who is the presiding official appointed by the Director to conduct a hearing.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or \$800. The \$800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence when the proceeds are not used as purchase money for the residence.

"Independent loan processing entity" means an entity engaged solely in providing loan processing services through the sponsoring of individuals acting pursuant to Section 7-1A(d) of the Act.

"Licensee" means a person or entity licensed under the Act.

"Material", as used in Section 6-2(2) of the Act, shall include, but not be limited to, a misstatement or omission of fact that, if it had not been misstated or omitted, would have altered the decision, approval, determination, or finding made by the Director or his or her agent in reliance upon the misstatement or omission.

"Material" shall also include a misstatement or omission of fact that, if it had not been misstated or omitted, would have caused the Director or his or her agent to act or consider acting pursuant to any of the powers vested in the Director or his or her agents or in the Department or the Division by the Act or the rules promulgated under the Act.

"NMLS" means the Nationwide Multistate Licensing System and Registry.

"Other regulatory agencies", as used in Section 4-2(e) of the Act, shall include the United States Department of Housing and Urban Development, state insurance commissions, any state or Federal agency having jurisdiction over the licensee, state and federal securities regulators, and the United States Department of Labor.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"Party" means any person, including the Director, named on a pleading or affected by an administrative decision.

"Petitioner" means a person affected by an administrative decision of the Division or the Department who files a request for hearing, or the Director when he or she initiates a notice for hearing to a named respondent.

"Principal place of business", as used in Section 1-4(d)(1)(ix) of the Act, shall mean the principal place of business of the subsidiary's parent bank, which must be chartered by the Comptroller of the Currency of the United States.

"Repurchase a loan":

As used in Section 2-4(w) of the Act, means those instances in which:

the licensee has demanded that another licensee repurchase a loan and the first scheduled loan payment has not been received by the licensee making the demand; or

the licensee has demanded that another licensee repurchase a loan as a result of the determination, after reasonable investigation, by the licensee making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

As used in Section 2-4(x) of the Act, means those instances in which:

the licensee has received a demand that it repurchase a loan and the first scheduled loan payment has not been received by the person making the demand; or

the licensee has received a demand that it repurchase a loan as a result of the determination, after reasonable investigation, by the person making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in the points and fees disclosed under 12 CFR 226.32.

"Respondent" means a person who is named in the notice of hearing when the notice is initiated by the Director, or the Director when a petitioner files a request for hearing.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Servicer" means any entity licensed under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, or noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"State" means the State of Illinois.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: FEES

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1050.210 Fees

- a) **Method of Payment of Fees**
The fees listed in this Section shall be payable to the Department, or to the Nationwide Mortgage Licensing System and Registry for transfer to the Department as approved by the Director. The Director may specify the form of payment to the Department or to the ~~NMLS Nationwide Mortgage Licensing System and Registry~~, which may include certified check, money order, credit card, or other forms authorized by the Director. The Director may specify that fees be paid separately or combined, and may pro-rate fees for implementation of the ~~NMLS Nationwide Mortgage Licensing System and Registry~~. The ~~NMLS Nationwide Mortgage Licensing System and Registry~~ shall be authorized to collect and process transaction fees or other fees related to licensees or other persons subject to the Act.
- b) **Residential Mortgage License**
- 1) **Investigation Fee:** The applicant shall pay a non-refundable fee of \$1,500 or such non-refundable amount as authorized by the Director that, when combined with the license fee set forth in subsection (b)(2)(A), totals an amount equal to \$2,700 annually or the amount authorized by Section 2-2 of the Act.
- 2) **License Fee:**
- A) **Initial Licensure:** For each application for an initial Illinois Residential Mortgage License on which the Director has made the findings that a license shall be issued, the applicant shall pay a non-refundable license fee of \$1,200, plus the investigation fee set forth in subsection (b)(1), or such non-refundable amount as authorized by the Director that, when combined with the investigation fee set forth in subsection (b)(1), totals an amount equal to \$2,700 annually or the amount authorized by Section 2-2 of the Act.
- B) **License Renewal:** For each application for an annual renewal of an Illinois Residential Mortgage License, the applicant shall pay a non-refundable license fee of \$2,700, or the total amount set forth in subsections (b)(1) and (b)(2)(A).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- C) Amended License: The licensee shall pay a non-refundable fee of \$500 for each Notice of Change of Ownership or Control amended license that is required by Subpart D.
 - D) Notice of Change: The licensee shall pay a non-refundable fee of \$50 with each Notice of Change of Officers or Directors or Change of Name or Address or Change of Activity.
 - E) Duplicate License: The licensee shall pay a non-refundable fee of \$50 for each duplicate original license issued.
 - F) Returned Payment: Any licensee or person who delivers a check or other payment to the Department that is returned unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed, a fee of \$50.
- 3) Exempt Registration Fee: For each application for initial registration or annual renewal of registration as authorized by Section 1-3(a-1) of the Act, the applicant or registrant shall pay the Department a non-refundable registration fee of \$2,700.
- c) Mortgage Loan Originator License
- 1) Application Fee: An applicant for a Mortgage Loan Originator license shall pay a non-refundable fee of \$200 for each individual licensed on the initial application and \$150 annually for each individual renewal, plus an additional \$75 late fee for any renewal that is received after the expiration date of the preceding license.
 - 2) License Transfer Fee: There shall be paid by or on behalf of the Mortgage Loan Originator a non-refundable fee of \$50 for each license transferred.
 - 3) License Reactivation Fee: There shall be paid by or on behalf of the applicant a non-refundable fee of \$150 for reactivating each or license on Inactive or Inoperative Status.
 - 4) Duplicate Documents: The licensee shall pay a non-refundable fee of \$50 for each duplicate document.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 5) Returned Payment: Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50.
- d) Examination
- 1) Fees: Time expended in the conduct of any examination of the affairs of any licensee or its affiliates pursuant to the provision of Section 4-2 of the Act shall be billed by the Department at a rate of \$510 per examiner day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.
- 2) Out-of-State Travel: When out-of-state travel occurs in the conduct of any examination, the licensee shall make arrangements to reimburse the Department all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).
- e) Additional Full-Service Office:
- 1) Initial Fee: The licensee shall pay a non-refundable fee of \$250 for each Notice of Intent to Establish an Additional Full-Service Office required by Subpart C.
- 2) Annual Fee: After the notice filed under subsection (e)(1), the licensee shall pay an annual non-refundable Additional Full-Service Office fee of \$250 on the initial license anniversary date.
- f) Hearing Fees: Each party that requests a hearing pursuant to Section 4-1(n) of the Act shall pay a non-refundable fee of \$500, except that a Mortgage Loan Originator requesting a hearing shall pay a non-refundable fee of \$250, unless the fee is waived by the Director. In determining whether to waive the fee, the Director shall consider the financial hardship imposed on the party.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: LICENSING

Section 1050.370 Licensing of Mortgage Loan Originators

- a) License Applications
The Director may withdraw any license application for which the applicant has failed or refused to provide a written response, including any required documentation, within 21 business days after receiving a deficiency letter for this response and required documentation from the Director.
- b) Licenses
 - 1) Issuance of License; Conditions and Reports. Upon approving an application for an original or renewed Mortgage Loan Originator License pursuant to Article VII of the Act and this Part, the Director may issue the Mortgage Loan Originator License through electronic licensing systems such as the [NMLS Nationwide Mortgage Licensing System and Registry](#) and maintain a public record of all licenses issued within those electronic licensing systems. The Director may make copies of licenses available to licensees through electronic or other methods. Mortgage Loan Originator Licenses shall be issued subject to the following conditions:
 - A) The Director shall use applicable license numbers and/or identifiers for each Mortgage Loan Originator License, including unique identifiers as authorized by Section 7-14 of the Act.
 - B) Each Mortgage Loan Originator shall provide notification to the Director through the [NMLS Nationwide Mortgage Licensing System and Registry](#), within 10 calendar days after obtaining information that the Mortgage Loan Originator has had his or her license revoked in any governmental jurisdiction (see Section 7-3(1) of the Act), has been convicted of, or pled guilty or nolo contendere to, a felony (see Section 7-3(2) of the Act), or has had an adverse judgment of \$500 or more in any jurisdiction (see the financial responsibility, character and general fitness requirements of Section 7-3(3) of the Act). The notification shall describe fully all convictions, revocations and adverse judgments. The Director may take disciplinary action against any Mortgage Loan Originator

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

for convictions, revocations and adverse judgments based upon failure to comply with Sections 7-3(1), (2), or (3) of the Act and may take disciplinary action against a Mortgage Loan Originator who fails to comply with the reporting requirement of this subsection (b)(1)(B).

- C) Each employing licensee [or registrant](#) shall provide notification to the Director through submitting a sponsor removal to the [NMLS Nationwide Mortgage Licensing System and Registry](#), immediately, but no later than 30 calendar days after the termination of a Mortgage Loan Originator's employment. The employing licensee [or registrant](#) may notify the Director of the reasons for the termination and, if applicable, the employing licensee [or registrant](#) also shall provide a report to the Director pursuant to Section 6-2(4) of the Act. The Director may take disciplinary action against an employing licensee [or registrant](#) that fails to comply with the reporting requirement of this subsection (b)(1)(C) or files a frivolous, false or misleading report under Section 6-2(4) of the Act.
- D) Each Mortgage Loan Originator shall notify the Director through the [NMLS Nationwide Mortgage Licensing System and Registry](#), within 30 days if the Mortgage Loan Originator's information contained in the initial application or any renewal application is no longer current and must file accurate supplemental information. The Director may take disciplinary action against a Mortgage Loan Originator who fails to notify the Director as required by this subsection (b)(1)(D).
- 2) Inactive or Inoperative Status and Reactivation; Transfers
The Director may create categories of inactive or inoperative status. A Mortgage Loan Originator License shall be considered on inactive or inoperative status at any time a Mortgage Loan Originator is not actively employed by a licensee [or registrant](#) prior to the expiration date of the license. A Mortgage Loan Originator shall apply to the Director through the [NMLS Nationwide Mortgage Licensing System and Registry](#), and include the transfer fee set forth in Section 1050.210, in order to transfer the sponsorship of his or her license to another employing licensee. A Mortgage Loan Originator cannot conduct licensable activities while on

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

inactive or inoperative status or any time prior to the Director accepting the new sponsor in the NMLS Nationwide Mortgage Licensing System and Registry. When a Mortgage Loan Originator has been on inactive or inoperative status for more than 90 calendar days, prior to resuming active status, the Mortgage Loan Originator shall pay to the Director a Mortgage Loan Originator Reactivation Fee in the amount set forth in Section 1050.210. A Mortgage Loan Originator's inactive or inoperative status expires with the expiration of the license and any subsequent licensing shall require submission of a new license application and fee in the amount set forth in Section 1050.210.

- 3) Independent Loan Processors
An independent loan processor entity must employ one or more individuals licensed as a Mortgage Loan Originator to provide supervision and instruction to one or more individuals performing loan processing services. If only one loan processor is providing services for an independent loan processing entity, that individual must be licensed as a Mortgage Loan Originator to meet the supervision and instruction requirement set forth in the Act and this Part.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART D: OPERATIONS AND SUPERVISION

Section 1050.490 Bonding Requirements

- a) In lieu of a paper surety bond, each licensee shall file and maintain an electronic surety bond in the NMLS Nationwide Multistate Licensing System and Registry in conformance with Section 3-1 of the Act. The amount of the bond shall be not less than \$25,000 and in an amount according to the scale in subsection (b).
- b) Each Mortgage Loan Originator must be covered by the electronic surety bond filed and maintained by his or her employing licensee pursuant to subsection (a). Registered exempt companies or entities shall file and maintain electronic surety bonds in the same manner as subsection (a) for the purpose of covering their Mortgage Loan Originator employees or sponsored individuals. Licensed mortgage brokers and mortgage bankers and exempt company or entity registrants must file and maintain an electronic surety bond that provides coverage for each sponsored Mortgage Loan Originator in an amount that reflects the dollar amount

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

of Illinois mortgage loans applied for or originated by its Mortgage Loan Originators during the preceding calendar year. Exempt independent loan processing entity registrants must file and maintain an electronic surety bond in the same manner as subsection (a) that provides coverage for each sponsored Mortgage Loan Originator in the amount of \$50,000. The surety bond amount will be set for each licensed mortgage broker and mortgage banker and registered exempt company or entity in accordance with the following scale, or, for exempt independent loan processing entity registrants, the \$50,000, based upon Illinois residential mortgage loans brokered, processed, underwritten, funded, originated, serviced or purchased, as the case may be, during the preceding calendar year:

Loans	Bond Amount
\$0 - \$5,000,000	\$25,000
\$5,000,001 - \$20,000,000	\$50,000
\$20,000,001 - \$50,000,000	\$75,000
\$50,000,001 - \$100,000,000	\$100,000
Over \$100,000,000	\$150,000

The Director may require licensed mortgage brokers and mortgage bankers and registered exempt companies to file reports of Illinois mortgage loan volumes with the Director or ~~NMLS Nationwide Multistate Licensing System and Registry~~ for purposes of determining that the bond is in an amount that complies with the scale in this subsection (b). Based upon these reports, the Director may cause licensed mortgage brokers and mortgage bankers and registered exempt companies to adjust the amount of the bonds to an amount that complies with the scale in subsection (b).

- c) Each electronic surety bond required pursuant to Section 3-1 of the Act and this Section shall be for a perpetual term.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY, PURCHASING ACTIVITY, AND MORTGAGE SERVICING ACTIVITY

Section 1050.610 Filing Requirements

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

On or before March 1 of each year, each licensee, except entities engaged solely in loan brokering activities and entities engaged solely in servicing activities, shall file an Annual Report of Mortgage Activity. On or before March 1 of each year, each licensee that brokers loans must file an Annual Report of Mortgage Brokerage Activity. On or before March 1 of each year, each licensee that services residential mortgage loans shall file an Annual Report of Mortgage Servicing Activity. On or before March 1 of each year, each licensee that purchases residential mortgage loans shall file an annual report of purchasing activity set forth in Section 1050.655. The Director may require reporting by licensees of mortgage, mortgage brokerage, and mortgage servicing activities to the [NMLS Nationwide Mortgage Licensing System and Registry](#), upon the dates established by the [NMLS Nationwide Mortgage Licensing System and Registry](#).

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART H: ADVERTISING

Section 1050.920 Definition of Advertisement

- a) An advertisement is any message, except as provided in subsection (b) of this Section, conveyed in any format, including, but not limited to, the Internet, and attempting to induce, directly or indirectly, any person to enter into a residential mortgage loan or residential mortgage loan brokerage agreement as defined in Section 1-4(w) of the Act.
- b) Small items bearing only the name, address and telephone number of the distributing entity shall not be considered messages intended to induce any person to enter into a residential mortgage loan agreement or residential loan brokerage agreement as defined in the Act and shall not be considered advertisements. Examples of these items are pencils, pens, buttons, pins, pocket calendars, and balloons, ~~and business cards.~~ Business cards shall be considered an advertisement.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1050.940 Requirements

Any advertisement appearing in Illinois by a licensee regarding residential mortgage loans, whether via electronic or print media, including mailings to individual potential residential mortgage loan customers, shall include, in a manner that is clear and conspicuous to the consumer:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) The NMLS Consumer Access homepage (www.nmlsconsumeraccess.org). For electronic media, the licensee shall use the phrase "For licensing information, go to: www.nmlsconsumeraccess.org." ~~The name and an office address of the licensee, which shall conform to a name and address on record with the Director;~~
- b) The NMLS Unique Identifier of the licensee ~~words, "Illinois Residential Mortgage Licensee", which shall be clear and conspicuous. If a Mortgage Loan Originator (MLO) is advertised, the licensee must include its MLO employee's individual NMLS Unique Identifier, in addition to the licensee's NMLS Unique Identifier.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1050.950 Misleading and Deceptive Advertising Prohibition

Advertisements by licensees shall not be false, misleading or deceptive. Examples of prohibited advertising include but are not limited to the following:

- a) No advertisement regarding residential mortgage lending or brokering may indicate or imply that interest rates or charges for loans are in any way "recommended", "approved", "set" or "established" by the State or the Act;
- b) The NMLS Unique Identifier of the licensee ~~words "Illinois Residential Mortgage Licensee"~~ shall not appear in any advertisement relating to activities other than residential mortgage lending or brokering, unless wording relating to the licensee's residential mortgage services also appears in the such advertisements and in prominence equal to or greater than the language regarding its other activities.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rules of Practice in Administrative Hearings
- 2) Code Citation: 68 Ill. Adm. Code 1110
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1110.5	Amendment
1110.10	Amendment
1110.20	Amendment
1110.30	Amendment
1110.40	Amendment
1110.50	Amendment
1110.60	Amendment
1110.70	Amendment
1110.80	Amendment
1110.90	Amendment
1110.100	Amendment
1110.110	Amendment
1110.120	Amendment
1110.130	Amendment
1110.140	Amendment
1110.150	Amendment
1110.160	Amendment
1110.170	Amendment
1110.175	Amendment
1110.180	Amendment
1110.190	Amendment
1110.200	Amendment
1110.210	Amendment
1110.220	Amendment
1110.240	Amendment
1110.245	New Section
1110.246	New Section
1110.270	Amendment
1110.APPENDIX A	Amendment
1110.APPENDIX B	Amendment
1110.APPENDIX C	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Statutory Authority: Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking represents a significant re-write of the administrative hearing rules governing statutorily required hearings conducted by the Divisions of Professional Regulation and Real Estate of the Department. It accomplishes a number of things: (1) It implements PA 100-262, an amendment to the Civil Administrative Code [20 ILCS 2105] providing for the use of email to serve various required notices; (2) It implements PA 100-880, an amendment to the Illinois Administrative Procedure Act [5 ILCS 100], which imposes certain requirements on agencies using email to serve legal notices; (3) It changes references to "Hearing Officer" to "Administrative Law Judge". "Administrative Law Judge" is the term used by the Divisions. This is also consistent with the Illinois Administrative Procedure Act.; (4) It sets forth requirements for filing intent to deny cases, intent to refuse to renew, and show cause cases. These requirements do not exist in the current rules.; (5) It establishes procedures for agreed dispositions as a significant number of Division cases are handled through agreed dispositions and the existing rules do not set forth procedures for agreed dispositions.; (6) It revises the rules pertaining to legal representation to make them consistent with Supreme Court rules and standards of practice in Illinois courts; (7) It establishes procedures relating to pleadings which are also largely absent from the existing rules. Pleading issues frequently occur and need to be set forth.; (8) It revises discovery and subpoena procedures which are revised to reflect current practices.; (9) It establishes the burden of proof for each type of case. The burden of proof is poorly and inadequately addressed in the existing rules and thus much confusion has resulted. This proposal spells out and clarifies burden of proof.; (10) It revises rules regarding evidence; (11) It details the relationship and duties of the administrative law judge, the board, and the Director relating to hearings; (12) It adds a new section on privacy; (13) It adds a new section on the record on appeal; (14) It eliminates outdated or never used provisions; (15) General clean-up.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER a: ADMINISTRATIVE RULES

PART 1110

RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS

Section

1110.5	Applicability
1110.10	Definitions
1110.20	Institution of a Contested Case by the Division <u>Department</u>
1110.30	Institution of a Contested Case by Petitioner
1110.40	Joinder
1110.50	Form <u>and Filing</u> of Documents <u>Papers</u>
1110.60	Service
1110.70	Notice <u>of Preliminary Hearing</u>
1110.80	Prehearing -Negotiations <u>and Agreed Depositions</u>
1110.90	Representation
1110.100	Failure to Appear
1110.110	Amendment, Withdrawal of Complaints and Petitions for Hearing
1110.120	Requirement of an Answer; <u>Defaults</u>
1110.130	Discovery
1110.140	Subpoenas
1110.150	Prehearings <u>Prehearing Conference</u>
1110.160	Hearings
1110.170	<u>Administrative Law Judges</u> Hearing Officers
1110.175	Disqualification of <u>Administrative Law Judge</u> Hearing Officer
1110.180	Examination by the <u>Board or Administrative Law Judge</u> Committee
1110.190	Burden of Proof
1110.200	Documents
1110.210	Motions
1110.220	Evidence
1110.230	Adverse Witness
1110.240	<u>Administrative Law Judge and Board</u> Committee Reports <u>and Orders of the Director</u>
<u>1110.245</u>	<u>Privacy</u>
<u>1110.246</u>	<u>Record of Hearings</u>
1110.250	Severability
1110.270	Variances

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1110.APPENDIX A	Caption for a Case Filed by the Division Department
1110.APPENDIX B	Caption for a Petition for Restoration
1110.APPENDIX C	Caption for an Application for Licensure

AUTHORITY: Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105].

SOURCE: Rules of Practice in Administrative Hearings in the Department of Registration and Education and before committees of said Department, effective February 5, 1975; codified at 5 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 2270, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8214, effective June 28, 1982; Part repealed new Part adopted at 9 Ill. Reg. 1110, effective January 9, 1985; transferred from Chapter I, 68 Ill. Adm. Code 110 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1110 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2964; amended at 28 Ill. Reg. 7642, effective May 21, 2004; amended at 43 Ill. Reg. _____, effective _____.

Section 1110.5 Applicability

~~This Part~~These Rules shall apply to all hearings conducted by the Division pursuant to the Civil Administrative Code and other Acts under the jurisdiction of the Department ~~or the Director thereof~~. ~~Nothing herein contained shall in any way negate, limit, modify or otherwise affect any of the powers, duties or authority of any hearing officer under the Illinois Collection Agency Act (Ill. Rev. Stat. 1983, ch. 111, par. 2001, et seq.), approved September 8, 1974, or any amendment thereto or under the Illinois Controlled Substances Act (Ill. Rev. Stat. 1983, ch. 56 1/2, par. 100, et seq.), approved August 16, 1971, or any amendments thereto.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.10 Definitions

"Address of Record" means the address and/or email address required to be on file with the Department's Licensure Maintenance Unit by a licensee or, in the case of an unlicensed person, the most recent publicly ascertainable address.

"Administrative Law Judge" or "ALJ" means an attorney licensed to practice law in the State of Illinois who has been designated by the Director to conduct any

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

hearings governed by this Part. For the purposes of this Part, "Administrative Law Judge" means the same as "Hearing Officer" as referenced in the Civil Administrative Code or in any Act administered by the Division.

"Board" means any Board or Committee created or existing under the Civil Administrative Code or other Acts as advisory Boards or Committees to the Secretary or Director.

a) ~~"Civil Administrative Code" of Illinois (Ill. Rev. Stat. 1983, ch. 127, par. 1, et seq.)~~ means the Civil Administrative Code of Illinois (Department of Professional Regulation Law) [20 ILCS 2105], as amended, now in force in the State of Illinois, or as same may be further amended from time to time hereafter.

b) ~~"Clerk of the Court" means the person or unit designated by the Division to receive filings and to date stamp them. "Committee" means any Committee, Board, group of individuals, created or existing under the Civil Administrative Code or any other applicable statute at any time in force in the State of Illinois, within the jurisdiction of the Department, or a majority of the duly appointed members thereof.~~

e) ~~"Department" means the Department of~~ Financial and Professional Regulation.

d) ~~"Director" means the Director of the Division of Professional Regulation or the Director of the Division of Real Estate Department or duly appointed Acting Director, with the authority delegated by the Secretary or, in his absence from the State or in any event of his incapacity to act, his next immediate subordinate statutory officer within the Department.~~

"Division" means the Division of Professional Regulation or the Division of Real Estate within the Department, as the context indicates.

e) ~~"Hearing" means any hearing authorized to be held in the Department or before any of its several Boards within the Division, an Administrative Law Judge, Committees or the Director or the Secretary by the Civil Administrative Code or any and all other applicable statutes at any time in force in the State of Illinois.~~

"Licensee" means any holder of, or applicant for, a license, registration or other credential issued by the Division.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

f) "Petitioner" is a party who, by written petition, ~~or application~~ seeks relief or licensure under any provision of the statutes of the State of Illinois or any rule, ~~regulation~~, order or determination of the Division. The party seeking licensure may also be identified as "applicant" Department.

g) "~~Registrant~~" means ~~any holder of a license or certificate of registration issued by the Department, or any applicant therefor.~~

h) "Respondent" is a person, firm, association, partnership, ~~or~~ corporation, limited liability company or other legal entity against whom a complaint or notice initiating a proceeding~~petition~~ is filed or to whom an order or complaint is directed by the Division~~Department~~ initiating a proceeding.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Unlicensed Person" means any person who has never held a license.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.20 Institution of a Contested Case by the Division~~Department~~

- a) A contested case is instituted by the Division~~Department~~ when a Complaint and Notice of Preliminary Hearing are filed with the Clerk of the Court and mailed or emailed to the Respondent's~~registrant's last known~~ address of record, ~~postage prepaid.~~
- b) A Complaint shall be in writing, signed by ~~at~~ the Chief of Prosecution~~Prosecutions~~, and shall include a clear statement of the acts or omissions alleged to violate a statute or rule; and the citation of ~~that~~ the statute or rule.
- c) ~~The~~ A Notice of Preliminary Hearing shall be in writing; and shall contain the date, time, place and nature of the hearing to be held, shall refer to the Division's~~Department's~~ Rules of Practice, and shall comply with the Notice requirements of Section 1110.70 ~~of this Part.~~
- d) A contested case is also instituted by the Division when a Notice of Intent to Refuse to Renew is filed with the Clerk of the Court and mailed or emailed to the Respondent's address of record.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- e) A Notice of Intent to Refuse to Renew shall be in writing and signed by a Chief of Prosecution, shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and shall include the citation of that statute or rule. It shall notify the licensee that the licensee must request a hearing to contest the notice within 30 days after service and, if a request is not filed within that time, the Director may issue an order refusing renewal of the license. Upon receipt by the Clerk of the Court of a properly completed request for hearing, a case will be docketed and notice sent to the Respondent setting forth the date, time and place of hearing.
- f) The procedures for Rules to Show Cause for each profession are described in the applicable professional Act. If the Division is seeking a civil penalty for unlicensed practice, the Division shall file a Complaint and Notice of Preliminary Hearing in the same manner as set forth in this Section.
- g) Any Notice of Preliminary Hearing or Notice of Intent to Refuse to Renew prepared under the provisions of this Section pertaining to a person licensed under the Real Estate License Act of 2000 [225 ILCS 454] shall also be addressed to and served upon that person's managing broker and sponsoring broker.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.30 Institution of a Contested Case by Petitioner

- a) A contested case is instituted by a Petitioner~~petitioner~~ when a Petition for Hearing is filed with the Clerk of the Court~~mailed to the Department, Attention: Chief of Prosecutions, postage prepaid.~~
- b) In a case in which~~where~~ a Petitioner~~petitioner~~ is seeking restoration of a license~~that certificate of registration which~~ was revoked or suspended or for termination of an indefinite probation, the Petition for Hearing shall be in writing, signed by the Petitioner~~petitioner~~, and shall set forth:
- 1) The number of the license~~that certificate which~~ was suspended, or ~~revoked~~ or placed on probation;
 - 2) The docket number of the case that~~which~~ resulted in discipline;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 3) The date on which the suspension, ~~or~~ revocation or probation was ordered;
 - 4) Whether the order ~~that which~~ suspended, ~~or~~ revoked, or placed on probation the license was appealed, and if so, whether a stay of the imposition of discipline was granted by any reviewing court;
 - 5) All dates and types of employment held since the discipline was imposed;
 - 6) All continuing or remedial education completed since the discipline was ordered;
 - 7) If the Petitioner~~petitioner~~ has sought medical treatment, psychotherapy or counseling since the discipline was ordered, and if rehabilitation is relied upon as a basis for petitioning that the license be restored or the prohibition terminated, the name and address of the treating professional, and whether ~~the Petitioner~~the Petitioner consents to disclosure by the professional of matters ~~that which~~ are relevant to whether ~~the Petitioner~~the Petitioner is fit to resume practice;
 - 8) Any conviction or arrest followed by a charge~~arrests or convictions~~ since the discipline was ordered; and
 - 9) Date and disposition of any other petitions for restoration filed since the discipline was ordered.
- c) A Notice of an Intent to Deny Licensure shall be in writing, signed by a Chief of Prosecution, and shall include a clear statement of the acts or omissions alleged to violate a statute or rule, and citation of the statute or rule that forms the basis for the denial. The Notice shall notify the licensee that he or she must request a hearing to contest the notice within 30 days after service and, if a request is not filed within that time, the Director may issue an order denying the license application. In a case in which the Petitioner, also referred to as the applicant, where petitioner seeks to contest a decision by the Division~~Department~~ to deny ~~the~~his application for licensure, the Petition for Hearing will be in writing, signed by the Petitioner~~petitioner~~, and will state with specificity the particular reasons why the applicant believes that the action by the Division~~Department~~ to deny licensure was incorrect.
- d) Upon receipt by the Clerk of the Court~~Chief of Prosecutions~~ of a properly

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

completed Petition for Hearing, a case will be docketed, and notice sent to the ~~Petitioner~~petitioner setting forth the date, time, and place of hearing.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.40 Joinder

In the interest of the efficient disposition of related cases, the ~~Division~~Department may join cases relating to multiple ~~Respondents~~respondents or petitioners without regard to whether the cases relate to the same license or profession so long as the cases involve issues of law or fact ~~that which~~ are common to the parties. The ~~Respondent~~respondent may contest the decision to join cases by filing a motion pursuant to Section 1110.210(a)(14) ~~of this Part~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.50 Form and Filing of Documents~~Papers~~

- a) All ~~documents~~papers filed or submitted to the ~~Division~~Department or Committee in a contested case shall be typewritten, on 8½- by 11- inch white paper. The first page of each document shall set forth the names of the parties and the docket number assigned to the case by the ~~Division~~Department. Petitions for Hearing ~~that which~~ are filed before a docket number is assigned shall contain a space for entry of the assigned number. (See ~~the Appendices~~Appendix A.)
- b) All Notices, Complaints, Answers, Petitions, motions, responses, replies and other papers in the nature of a pleading shall be filed with and date stamped by the Clerk of the Court. A copy of any motion, response, reply, or similar document shall also be provided to the opposing party and/or the opposing party's counsel of record or the assigned Division counsel, as applicable.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.60 Service

- a) Service of any document may be by mail or by personal delivery. Service may also be made by email to the Respondent, Petitioner or licensee to the address of record. Service upon an unlicensed person may only be made by mail to the most recent publicly ascertainable address or by personal delivery. Service by email to the assigned Division counsel may be addressed to his or her email address

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

appearing on any pleading.

- b) Proof of service by mail or personal delivery will be attached to the original of any document served. Proof of service by email shall be the emailed notice to which the document is attached. In the absence of evidence to the contrary, the date shown on the proof of service shall be deemed the date of service. Proof of service may be verified by certification as provided for in Section 1-109 of the Code of Civil Procedure [735 ILCS 5]~~Service on the Director, or on the Committee, or on the Department, or on a Department attorney or other Department employee is made by service on the Chief of Prosecutions, at the Chicago headquarters, or on the Director, at the Springfield headquarters.~~
- c) If service is by email, the Division shall maintain a copy of the sent email and shall verify within one business day that the transmission of the email has not been rejected or has failed. In the event of rejection or failure, absent correction of an erroneous email address, service shall be made by mail~~Service of any document as provided in the above paragraph will include at least three copies of the documents served.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.70 Notice of Preliminary Hearing

- a) The Notice of Preliminary Hearing shall include:~~Notice shall include:~~
- 1) *A statement of the time, place and nature of the hearing;*
 - 2) *A statement of the legal authority, and jurisdiction under which the hearing is to be held;*
 - 3) *A reference to the particular Sections of the substantive and procedural statutes and rules involved;*
 - 4) *Except ~~when~~where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number. (Ill. Rev. Stat. 1983, ch. 127, par. 1010)*
 - 5) *To the extent such information is available, the names, phone numbers,*

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

email addresses and mailing addresses of the administrative law judge or designated agency contact, parties, and all other persons to whom the agency gives notice of the hearing unless otherwise confidential by law. [5 ILCS 100/10-25(a)]

- 6) A statement that the purpose of the Preliminary Hearing is to set a date on which all parties expect to be prepared to proceed with their cases and to rule on any preliminary motions that are presented.
- b) The Notice of Preliminary Hearing shall include a copy of the complaint, if any.
- ~~c~~b) Except as otherwise provided by statute, the Respondent or Petitioner~~registrant~~ will be given at least 20~~ten~~ days notice prior to the first date set for the preliminary hearing or hearings, as the case may be. Once ~~such~~ notice is given, it will thereafter be the responsibility of the Respondent or Petitioner~~registrant~~ to know~~become acquainted with~~ subsequent hearing dates.
- ~~d~~e) Nothing in this Section will prevent the Division~~Department~~ from scheduling a hearing within 20~~ten~~ days after~~of~~ the date on which the Director summarily suspends a license pending proceedings.
- ~~e~~d) Any contention that improper notice was given will be deemed waived unless it is raised by the Respondent~~registrant~~ prior to argument on any other motion, or, if no other motions are presented, prior to the commencement of opening statements.
- e) ~~Proper notice is given by depositing a Notice with the U.S. Postal Service, either by certified or registered mail, or by the personal service, to the last known address of the registrant.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.80 Prehearing Negotiations and Agreed Depositions

- a) The Division~~Department~~ and the Respondent or Petitioner may stipulate to facts and that stipulation may be used or otherwise admitted at the hearing~~agree to discipline conditioned upon Committee acceptance. If the agreement is acceptable to the Committee, it shall signify its consent with the signature of a majority of its members on the written agreement. Such signed agreement shall~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~be considered the Conclusions of Law, Findings of Fact, and Recommendation to the Director. If the Committee or the Director rejects the agreement, the Respondent shall then be entitled to a hearing on the merits. It shall not be a bar to participation in the hearing by a Committee member that he has previously considered a proposed agreement under this Section.~~

- b) ~~The Division and the Respondent or Petitioner~~A respondent may enter into a written agreement providing for disciplinary or nondisciplinary action against the Respondent or the granting or restoration of a license as a settlement and disposition of the complaint or petition. The written agreement may also be signed by a Board member from the relevant Board. The written agreement shall be considered the Findings of Fact, Conclusions of Law, and Recommendation to the Director. If the Director approves the written agreement, it shall be entered in the same manner as any other Order of the Director and shall constitute a final decision. If the Director rejects the written agreement, the Respondent or Petitioner shall then be entitled to a hearing on the merits. It shall not be a bar to participation in the hearing by a Board member that he or she has previously considered a proposed agreement under this Section. A proposed written agreement not accepted by all parties or rejected by the Director shall be deemed confidential as an unsuccessful attempt to settle and shall not be referenced or included in any future pleading or proceeding~~waive his right to have discipline imposed only upon the action and report in writing of the Committee.~~
- c) Participation in an informal conference shall not be a basis to exclude Board members from deliberating with the full Board on an Administrative Law Judge's Report and Recommendation in a contested matter.
- d) Statements made during informal conferences are confidential, including proposed agreed dispositions.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.90 Representation

- a) A party may be represented by an attorney who is licensed in Illinois or by an attorney otherwise permitted by law to practice in the State. Attorneys who appear in a representative capacity must file written notice of appearance setting forth:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) The name, address, email address, ~~and~~ telephone number and Supreme Court registration number of the attorney;
 - 2) The name, ~~and~~ address and email address of the party represented; and
 - 3) An affirmative statement indicating that the attorney is licensed in Illinois or is appearing pro hac vice.
- b) An attorney may not withdraw his or her appearance for a party without leave of an Administrative Law Judge and notice to all parties. The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address of the party represented. The motion may be denied by the Administrative Law Judge if the granting of it would delay the trial of the case or would otherwise be inequitable. An attorney may withdraw from employment as a representative only upon written notice to the Department which states his specific reasons therefor.
- c) A law student licensed under Supreme Court Rule 711 may appear on behalf of any party and shall be subject to the same requirements as an attorney.
- d) Attorneys admitted to practice in states or jurisdictions other than the State of Illinois may appear and be heard in a specific hearing pro hac vice as authorized and in compliance with Supreme Court Rule 707. The attorney's appearance shall include documentation as to his or her eligibility or qualification under Supreme Court Rule 707.
- e) Any individual may appear on his or her own behalf.
- f) A corporation, limited liability company, professional limited liability company, or partnership must appear may be represented by legal counsel, licensed to practice in the State of Illinois or appearing pro hac vice an officer, upon presentation to the Department of a duly executed resolution of the Board of Directors authorizing him to act in a representative capacity and setting forth the powers which he is authorized to exercise.
- g) Once an appearance is filed, a copy of all future filings shall be served upon the counsel of record, unless that counsel has withdrawn. In addition to that service, a copy may be served on the licensee. A partnership may be represented by any partner, upon presentation to the Department of written authorization from all the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~partners authorizing him to act in a representative capacity.~~

- ~~h~~f) ~~The standard of conduct shall be the same as before the Courts of Illinois. Attorneys appearing before the Department shall conform their conduct to the Illinois Code of Professional Responsibility, effective July 1, 1980, and as amended hereafter. Any failure to behave in a manner consistent with these standards of conduct or this Part which permits the efficient functioning of the Department will authorize an Administrative Law Judge, a Committee or hearing officer to take the following actions:~~
- ~~1) Limitation of evidence;~~
 - ~~2) Substitution of written argument in place of oral argument;~~
 - ~~3) Exclusion of an attorney from the proceeding;~~
 - ~~4) Suspension or revocation of an attorney's ability to represent a party right to appear before the Division, Committee or hearing officer.~~
- ~~i~~g) ~~If any of the above actions are taken by the ALJ, Committee or hearing officer, it shall be done as a matter of record, and the ALJ, Committee or hearing officer shall state for the record the specific reasons for the action therefor.~~
- ~~j~~) ~~A party sanctioned under this Section may request the decision be reviewed by the Director.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.100 Failure to Appear

Failure ~~of the licensee~~ to appear in person at the time and place set for formal hearing shall be deemed a waiver of the right to present evidence unless otherwise reflected by order of the Administrative Law Judge. ~~Failure to appear at the time and place set for hearing shall be deemed a waiver of the right to present evidence.~~ After presentation by the Division Department of ~~an offer of~~ proof that the Respondent ~~registrant~~ was given proper notice and the Division has been given an opportunity to present evidence, the ALJ ~~Committee~~ shall make his or her ~~its~~ recommendation. ~~When~~ Where a Petitioner ~~petitioner~~ fails to appear in person, the Petition for Hearing shall be dismissed.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.110 Amendment, Withdrawal of Complaints and Petitions for Hearing

- a) The Complaint, Notice of Intent to Refuse to Renew, or Notice of Intent to Deny a Licensee~~complaint~~ may be amended at any time. An amended Complaint or amended Notice shall~~may~~ be filed in the same manner as a Complaint. If an amended Complaint or Notice is filed, or it may be presented to the Committee or hearing officer~~or it may be presented to the Committee or hearing officer~~ during the course of the hearing, it shall also be presented to the Administrative Law Judge. A continuance shall be granted whenever the amendment materially alters the Complaint or Notice~~Complaint~~, and when~~where~~ the Respondent~~registrant~~ demonstrates that he or she would otherwise be unable to properly prepare an Answer to the Amended Complaint or Notice or prepare his or her case.
- b) A Complaint, Notice~~Complaint~~ or Petition for Hearing may be withdrawn at any time prior to the hearing by the party who initiated it. After a hearing has begun, a Complaint, Notice or Petition~~Complaint~~ may be withdrawn only with leave of the ALJ~~upon written notice to the Committee~~.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.120 Requirement of an Answer; Defaults

- a) In ~~all~~ contested cases involving a Complaint and unless otherwise provided by law instituted by the Department, the Respondent~~registrant~~ shall file an Answer within 20~~ten~~ days after~~of~~ the date on which the Complaint was filed. The Answer shall be in writing, signed by the Respondent~~registrant~~ or his or her representative, and shall contain a specific response to each allegation in the Complaint. The response shall either admit or deny the allegation, or shall state that the Respondent~~registrant~~ has insufficient information to admit or deny the allegation. Any Answer not conforming to the requirements of this Section may be stricken.
- b) Any Answer that~~which~~ states that the Respondent~~registrant~~ has insufficient information to admit or deny the allegation shall be accompanied by an affidavit attesting to the truth of this assertion.
- c) If the Respondent does not file an Answer conforming with the requirements of

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

this Section or otherwise does not file a responsive pleading, on a motion by the DivisionDepartment the Administrative Law JudgeHearing Officer will cause to be issued a Notice to plead or be held in default. If, within 15 days after issuance of thesuch Notice, the Respondent does not file an answer conforming with the requirements of this Section or otherwise file a responsive pleading, the RespondentPleading he will be held in default and the allegations of the Complaint will be deemed to have been admitted. In a like manner, if a Respondent fails to appear for any scheduled hearing or proceeding of any kind without cause, he or she may be held in default and the allegations of the Complaint will be deemed to have been admitted.

- d) In all contested cases involving a Petition to Restore, the Petitioner's failure to appear at a scheduled hearing of any kind may result in a default and/or the dismissal of the Petition by the ALJ.
- e) In contested cases involving a Notice of Intent to Refuse to Renew, the Respondent shall file a request for a hearing to contest the Notice within 30 days after service. If a request is not filed within that time, the Director may issue an order refusing renewal of the license. If a request for hearing is filed but the Respondent fails to appear at a scheduled hearing of any kind, the ALJ may dismiss the request for want of prosecution and refer the notice to the Director for action.
- f) In contested cases involving a Notice of Intent to Deny Licensure, the Applicant shall file a request for hearing to contest the Notice within 30 days after service. If a request is not filed within that time, the Director may issue an order denying the license. If a request for hearing is filed but the Applicant fails to appear at a scheduled hearing of any kind, the ALJ may dismiss the request for want of prosecution and refer the notice to the Director for action.
- g) In a case involving a Tax Liability Order, the Respondent shall file a request for a hearing to contest the Order within 60 days after the effective date of the Order. If a request for hearing is filed but the Respondent fails to appear at a scheduled hearing of any kind, the ALJ may dismiss the request for want of prosecution and refer the Order to the Director for action.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.130 Discovery

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) Discovery shall not be the subject of motions presented to the Administrative Law Judge~~Committee or hearing officer~~, except when a motion is made alleging failure to comply with this provision, and requesting appropriate relief~~in the form of dismissal of the case, or recommendation to the Director based on the pleadings without a hearing.~~
- b) Upon written request served on the opposing party or by order of the Administrative Law Judge, any party shall be entitled to:
- 1) The name and address of any witness who may be called to testify, including identification of any witness to be offered as an expert;
 - 2) Copies of any document ~~that~~which may be offered as evidence; ~~and~~
 - 3) A description of any other evidence ~~that~~which may be offered; ~~and~~
 - 4) Any nonprivileged evidence in the Division's possession; and
 - 5) Copies of any Division investigative report created for the case.
- c) The above information will be provided within 30~~ten~~ days after~~of~~ service of a request or as otherwise directed by an ALJ.
- ~~d) Whether or not a request is made, during discovery a registrant shall be entitled to:~~
- ~~1) Any exculpatory evidence in the Department's possession. Exculpatory evidence is any evidence which tends to support the registrant's position or to call into question the credibility of a Department witness; and~~
 - ~~2) Copies of any investigative report which purports to be a memorandum of interview of the registrant.~~
- e) ~~The registrant shall be entitled to the above whether or not the investigator is called to testify and whether or not the investigator uses his reports to refresh his recollection prior to or during testimony.~~
- df) Upon a written request served on the Respondent~~registrant~~, at any time after a

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Complaint, Notice of Intent to Deny, or Notice of Intent to Refuse to Renew is filed, or at any stage of the hearing, the Respondent~~registrant~~ will be required to produce documents, books, records or other evidence ~~that~~which relate directly to conduct of the trade, occupation or profession.

- ~~g)~~ ~~The investigative file of a Department investigator is not subject to discovery except as stated in paragraph (d) above relating to exculpatory evidence and memoranda of interviews of a registrant. However, after the direct examination of a Department witness but prior to the cross examination of that witness, the registrant shall be entitled to all investigative reports relating to that witness. Investigative reports relating to the witness shall be those which purport to be memoranda of interviews of the witness or which contain information about the witness.~~
- ~~eh)~~ Nothing in this Section shall prevent the parties in a contested case from agreeing to a mutual exchange of information ~~that~~which is more extensive than what is provided for in this Section~~herein~~. ~~Where the parties agree to the use of an evidence deposition, such agreement will be in writing, and will operate as a waiver of any objection not made during the deposition, except for an objection that the testimony of the witness is not relevant to the case.~~
- ~~fi)~~ This provision will be construed to impose a continuing obligation upon the parties to exchange new information as it becomes available.
- ~~g)~~ No depositions will be taken, interrogatories proposed, or other discovery mechanism used without the mutual agreement of the parties and approval of the ALJ.
- ~~h)~~ Service of notice upon a party licensee of the Division's intention to take his or her testimony at a formal hearing is sufficient to require the licensee's attendance at hearing.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.140 Subpoenas

- a) The Chief Administrative Law Judge, or another Administrative Law Judge designated by the Chief~~Director or his delegate~~, will issue subpoenas for the attendance of witnesses or production of books, records, documents or other

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

evidence.

- b) Any ~~Respondent~~registrant or ~~Petitioner~~petitioner seeking issuance of a subpoena shall submit a request ~~will apply~~ in writing to the Chief Administrative Law Judge~~Department, Attention: Chief of Prosecutions, setting forth facts which purport to demonstrate that the subpoena is required. Upon refusal by the Director to issue any subpoena, the registrant will be entitled to a hearing before the Director, to be conducted as a matter of record.~~
- c) The request shall set forth facts to demonstrate that the documents or testimony sought are relevant to the issues contained in the Complaint, Notice of Intent to Deny, Notice of Intent to Refuse to Renew, or Petition pending before the Division and are not otherwise excludable by law or by rule.
- d) A request for subpoena may be denied if insufficient information is provided in the request to make such a determination.
- e) Except for Division investigators and profession coordinators who participated in the investigation of the case, the Chief Administrative Law Judge shall not generally issue subpoenas for the testimony of Department or Division officers or employees or members of any Division Board.
- f) Upon refusal by an Administrative Law Judge to issue any subpoena, the licensee will be entitled to a hearing before another Administrative Law Judge, to be conducted as a matter of record.
- ge) Service of subpoenas and payment of witness fees and expenses shall be as provided in the Civil Administrative Code of Illinois [20 ILCS 2105/2105-105]. (~~Ill. Rev. Stat. 1983, ch. 127, par. 60 d~~)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.150 Prehearings~~Prehearing Conference~~

- a) After a case is instituted, upon the written motion of ~~any~~either party, or on his or her~~its~~ own motion, the Administrative Law Judge~~Committee or the hearing officer~~ may direct the parties to attend a prehearing ~~conference~~.
- b) Upon the request of any party~~Unless waived by the parties, the~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~prehearing conference~~ will be conducted as a matter of record. Participation by any ~~Board Committee~~ member or ~~an ALJ hearing officer~~ will not affect his ~~or her~~ right to participate in a subsequent hearing on the matter. The requesting party shall be responsible for the court reporter's attendance and costs.

- c) The purposes of the ~~prehearing conference~~ include:
- 1) Simplification of issues;
 - 2) Limitation of issues;
 - 3) Negotiating admissions or stipulations;
 - 4) Limitation of witnesses or evidence;
 - 5) Exchange of exhibits; ~~or~~
 - 6) Discussion of any other matter ~~that which~~ may aid in efficient disposition of the case; ~~or~~
 - 7) Agreed dispositions.
- d) The parties shall be fully prepared to participate in a prehearing, which shall include presentation of any prehearing motions, witness and exhibit lists, disclosure of expert witnesses, and any other materials directed by an ALJ.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.160 Hearings

The sequence to be followed for all contested cases is as follows:

- a) Preliminary Hearing. The purpose is to set a date on which all parties expect to be prepared to proceed with their cases, and to rule on any preliminary motions ~~that which~~ are presented. ~~This may be eliminated by agreement of the parties, by Committees who meet fewer than ten times per year, or by the hearing officer.~~
- b) ~~Prehearings~~ Prehearing Conference – Optional. The purposes are set ~~forth~~ in Section 1110.150.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) Hearings
- 1) Preliminary ~~Matters~~~~matters~~ – ~~Motions~~~~Motion~~, attempts to narrow issues or limit evidence.
 - 2) Opening Statements – The party bearing the burden of proof proceeds first.
 - 3) Case in Chief – Evidence ~~is~~~~and witnesses are~~ presented by the party bearing the burden of proof. ~~Once a witness' direct~~ ~~As witnesses'~~ testimony is completed, ~~that witness is~~~~they are~~ subject to cross-examination.
 - 4) Defense – Evidence ~~and witnesses~~ may be presented by the opposing ~~party~~~~parties~~.
 - 5) Closing Statements – The party bearing the burden of proof proceeds first, then the opposing party, then a final word by the party bearing the burden of proof.
 - 6) ~~Committee Report~~ – ~~Described in Section 1110.240.~~
- d) In hearings for the sole purpose of determining the length of the automatic suspension of the licensee's license upon conviction or entry of a plea of guilty or nolo contendere in a criminal prosecution to a criminal health care or criminal insurance fraud offense requiring intent under the Civil Administrative Code, the licensee shall proceed first in opening statements and closing statements and shall present evidence in the case in chief.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.170 Administrative Law Judges~~Hearing Officers~~

- a) In any contested case, the Director ~~shall appoint and~~~~may~~ employ ~~an~~~~any~~ attorney, licensed to practice in Illinois, to serve as Administrative Law Judge on behalf of the Board. The Director may also appoint and employ an attorney, licensed to practice in Illinois, to serve as ALJ to conduct any hearing in his or her ~~stead~~~~hearing officer~~. The ALJ shall~~hearing officer~~ ~~may~~ be empowered to conduct

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

the hearing, question witnesses, make rulings on motions and objections, ~~and to submit suggested Findings of Fact, and Conclusions of Law, and his or her recommendation~~ to the ~~Board or Director~~ Committee at the conclusion of the case. ~~The hearing officer may also afford the Committee such legal counsel as it may require during the course of the hearing and until a final order is signed.~~

- b) It shall not be a bar to employment as an Administrative Law Judge ~~hearing officer~~ that the attorney is also a Department employee.
- e) ~~In any case in which the Director does not employ a hearing officer, the Committee may appoint as presiding officer its chairman, or other Committee member to conduct the hearing, make rulings on motions or objections, or to make suggested Findings of Fact and Conclusions of Law to the full Committee.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.175 Disqualification of Administrative Law Judge ~~Hearing Officer~~

- a) ~~An Administrative Law Judge~~ A Hearing Officer may, on his/her own motion, recuse himself/herself from presiding over a matter due to conflict of interest or bias.
- b) At any time prior to the issuance of the Administrative Law Judge's ~~hearing officers~~ final decision or recommendation, a party may file a motion to disqualify the ~~ALJ hearing officer~~ for bias or conflict of interest. An adverse ruling made by an ALJ ~~hearing officer~~, in and of itself, shall not constitute bias or conflict of interest. The motion shall set forth the alleged grounds of bias or conflict of interest and shall include supporting affidavits. A different ALJ ~~hearing officer~~ shall have 7 days after the motion was filed to enter a written ruling, which shall be served on all parties. An adverse ruling or rulings rendered against the party or its representative in any previous matter shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section.
- c) If the motion to disqualify is denied, the moving party may request the decision be reviewed by the Director.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.180 Examination by the Board or Administrative Law Judge ~~Committee~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) Any member of any Board~~Committee~~, or any Administrative Law Judge~~hearing officer~~, may examine any witness.
- b) Either party may object to specific questions asked by the Board member~~Committee~~ or ALJ~~hearing officer~~, but it shall not be objectionable that a question violates a technical rule of evidence. For purposes of these rules, the rule against hearsay is a substantive, rather than technical rule of evidence.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.190 Burden of Proof

- a) The burden of proof rests with the Division~~Department~~ in all cases instituted by the Division~~Department~~ by the filing of a Complaint or Notice of Intent to Refuse to Renew. A recommendation for discipline may be made by the Administrative Law Judge~~Committee or hearing officer~~ only when~~where~~ the Division~~Department~~ establishes by clear and convincing evidence that the allegations of the Complaint or Notice are true.
- b) The burden of proof in all cases instituted by the filing of a Petition for Hearing rests with the Petitioner ~~except as provided in this Section~~petitioner. The Petitioner~~petitioner~~ must prove by a preponderance of the evidence that the license should be granted ~~or restored, as the case may be~~.
- c) An action may be commenced by the Division by the filing of a Notice of Intent to Deny issuance of a license or other credential.
 - 1) If the Notice of Intent to Deny alleges that the applicant has violated a disciplinary provision of the applicable professional Act, the Division has the burden of proof to prove by clear and convincing evidence that the alleged violation occurred. Upon the Division meeting this burden of proof, the Applicant then has the burden to prove by a preponderance of the evidence that the license or other credential should be granted. In any contested case in which the Notice of Intent to Deny alleges that the applicant has violated a disciplinary provision of the applicable professional Act, the sequence of the formal hearing shall be as if the Division has the burden of proof. This provision does not apply in any

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

situation in which the relevant statute provides that no hearing shall be held.

- 2) If the Notice of Intent to Deny notifies the applicant that he or she does not meet the minimum qualifications for a license or other credential and does not otherwise allege applicant has violated a disciplinary provision of the applicable professional Act, the applicant has the burden of proof to prove by a preponderance of the evidence that the qualifications have been met. This provision does not apply in any situation in which the relevant statute provides that no hearing shall be held.
- 3) Upon a finding that the applicant was previously convicted of a felony or misdemeanor that may be grounds for refusing to issue a license or certification or to grant registration, the Administrative Law Judge or Board making a recommendation regarding a Notice of Intent to Deny shall consider the mitigating factors and evidence of rehabilitation contained in the applicant's record, when allowed by the Civil Administrative Code, to determine whether a prior conviction will impair the ability of the Applicant to engage in the practice for which a license, certificate or registration is sought.
- 4) Upon review of a previous conviction of an initial applicant for the purpose of determining good moral character, the ALJ or Board making a recommendation regarding a Notice of Intent to Deny shall consider evidence of rehabilitation and mitigating factors in the applicant's record, when allowed by the Civil Administrative Code.
- d) Except as otherwise provided in this Section, a case instituted by the filing of a Notice to Refuse to Renew shall be handled in the same manner as a Complaint.
- e) The burden of proof rests with the Division to prove by clear and convincing evidence that the alleged violation has occurred when a licensee files a Request for Hearing after he or she has been subject to an automatic suspension or other discipline due to a violation of a term of a previous Director's Order or Consent Order.
- f) No burden of proof applies in hearings conducted for the sole purpose of determining the length of an automatic indefinite suspension imposed pursuant to Section 2105-170 of the Civil Administrative Code.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.200 Documents

- a) Business records shall be admissible. A business record is:
- 1) Relevant;
 - 2) A memorandum, report, record or data compilation;
 - 3) Made by a person with first-hand knowledge of the facts or from information transmitted by a person with knowledge of those matters;
 - 4) Made at or near the time of the facts;
 - 5) Made as part of the regular practice of the activity; and
 - 6) Kept in the course of regularly conducted activity.
- b) Any party may prove elements (a)(3) through (a)(6), ~~above~~, by presentation of a sworn statement by an individual responsible for making or keeping ~~those such~~ records. Business records include but are not limited to medical reports and Illinois Department of Public Health or Department of Human Services records and police reports.
- c) Any party seeking introduction of a document will be allowed to offer a mechanical reproduction or photo~~carbon~~ copy of the original without any showing that the original is unavailable, upon representation of the party or attorney that the copy is a fair and accurate copy of the original.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.210 Motions

- a) Motions will be made in writing, unless otherwise allowed by the Administrative Law Judge prior to or~~Committee, hearing officer or Director~~ during the course of a hearing. Written motions are limited to the following:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) To request dismissal of a Complaint, for failure to state facts ~~that~~which, if true, would form a sufficient basis for discipline.
- 2) To request sanctions in accordance with ~~the~~ Section 1110.90~~of these rules dealing with~~ (Representation).
- 3) To request sanctions in accordance with ~~the~~ Section 1110.130~~of these rules dealing with~~ (Discovery).
- 4) To request dismissal of a Petition for Hearing, for failure to comply with Section 1110.30~~the Section of these rules dealing with~~ (Institution of a Contested Case by a Petitioner).
- 5) To request dismissal of a Complaint, Notice of Intent to Deny, or Notice of Intent to Refuse to Renew when~~where~~ the Division's~~Department's~~ case has been concluded without sufficient evidence having been presented to form a basis for discipline.
- 6) To request a continuance, or extension of time to comply with any provision of this Part consistent with the expedited nature of administrative hearings~~these rules~~.
- 7) ~~To request an order granting a rehearing, or additional hearings.~~
- 8) ~~To request an order that a Committee or hearing officer reconsider its Findings of Fact, Conclusion of Law or Recommendation to the Director or to request a new hearing or additional hearings.~~
- 9) ~~To request that a Committee or hearing officer deem a failure to file an Answer to be an admission of the truth of the allegations contained in the Complaint.~~
- 10) ~~To request employment of a hearing officer.~~
- 711) To request that a member of the Board~~Committee~~ be excluded from the hearing or deliberations, for prejudice.
- 812) To request that an Order entered by the ALJ be vacated or modified.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 913) To request a prehearing ~~conference~~.
- 1014) To request separation of cases joined by the ~~Division~~Department.
- 1115) To request disqualification of ~~an ALJ hearing officer~~ in accordance with Section 110.175.
- 12) To request a protective order to prevent exposure in the public domain of records or other information that is of a sensitive or confidential nature.
- 13) To request that a Notice to Plead or be held in default be issued upon failure to file an Answer or other responsive pleading in accordance with Section 1110.120(c).
- 14) To compel discovery.
- b) When any motion is filed, the ~~ALJ Committee, hearing officer or Director~~ may allow oral argument if this is deemed necessary ~~for~~to a fuller understanding of the issues presented. ~~When~~Where facts that are not part of the record in the case are alleged as a basis for the request, ~~which are not a part of the record in the case~~, an affidavit will be attached to the motion setting forth ~~those such~~ facts. Facts outside of the Complaint cannot be used to support a motion to dismiss for failure to state facts that, if true, would form a sufficient basis for discipline.
- c) Motions and any responses or replies shall be filed in accordance with Section 1110.50 with copies to the ALJ and other parties or their counsel. Unless otherwise directed by an ALJ, a party shall have 20 days from the date of service to respond to a motion and 10 days from date of service to reply to a response.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.220 Evidence

- a) The Illinois rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule that might make improper the admission of the evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded upon objection. Objections to evidentiary offers may be made and shall be noted in the record and ruled upon by the Administrative Law Judge. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts. Except as otherwise provided herein the rules of evidence applicable to all contested cases will be the rules of evidence which are applicable in civil cases in the State of Illinois.

- b) Testimony shall be taken only on oath or affirmation. Subject to the evidentiary requirements of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts. Hearsay is not admissible. In addition to any other exceptions to the hearsay rule which exists in Illinois, a statement may be admitted if it has circumstantial guarantees of trustworthiness, and if the probative value of the statement outweighs any prejudice resulting from an inability to cross-examine the declarant.
- c) All exhibits for any party shall be clearly marked for identification. A sufficient number of copies shall be made prior to the commencement of the hearing and when admitted into evidence by the ALJ. Statements which are not hearsay;
- d) Official notice may be taken of past hearings and of any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within the Division's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Division's and the ALJ's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.
- e) If a licensee appears for a hearing and refuses to testify on the grounds that any answer of his or hers may tend to incriminate him or her, the ALJ shall take an adverse inference from the refusal to testify and shall consider the adverse inference in addition to other evidence. If a licensee appears and refuses to testify

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

without asserting the right against self-incrimination, the ALJ shall enter any appropriate order as is required by the evidence and this Part.

- f) The ALJ may, on his or her own initiative or at the request of any party or witness, enter a protective order to prevent exposure in the public domain of records or other information that is of a sensitive or confidential nature.
- 1) ~~Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:~~
- A) ~~inconsistent with his testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition; or~~
 - B) ~~consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive; or~~
 - C) ~~one of identification of a person made after perceiving him; or~~
- 2) ~~Admission by party-opponent. The statement is offered against a party and is~~
- A) ~~his own statement in either his individual or a representative capacity; or~~
 - B) ~~a statement of which he has manifested his adoption or belief in its truth; or~~
 - C) ~~a statement by a person authorized by him to make a statement concerning the subject; or~~
 - D) ~~a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship; or~~
 - E) ~~a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.240 Administrative Law Judge and Board Committee Reports and Orders of the Director

- a) In every contested case, except for defaults, the Administrative Law Judge Committee will file a written Report and Recommendation that ~~report which~~ contains ~~its~~ Findings of Fact and Conclusions of Law with respect to the allegations contained in the Complaint, Notice of Intent to Deny, Notice of Intent to Refuse to Renew or Petition for Hearing, unless the parties reach an agreed disposition and its Recommendation to the Director.
- b) ~~In a case instituted by the Department, the recommendation to the Director may be:~~
- 1) ~~That a license not be issued;~~
 - 2) ~~That a license not be renewed;~~
 - 3) ~~That a license be issued;~~
 - 4) ~~That a license be renewed;~~
 - 5) ~~That a license be issued or renewed subject to discipline;~~
 - 6) ~~That a license be disciplined; or~~
 - 7) ~~That a license remain in good standing.~~
- be) When the recommendation is for discipline, the ALJ Committee will include his or hers specific recommendation as to type and duration.
- cd) If the ALJ's Report is made to a Board, the Board shall review the Report and the record and issue its own Report adopting, rejecting or modifying the Findings of Fact, Conclusions of Law and/or Recommendation and make any other recommendation it deems appropriate to the Director.~~In any case in which a special committee is designated, the report prepared by the special committee will have the same force and effect as a report prepared by a Committee.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- e) ~~In any case in which a Committee is unable to agree on a Recommendation to the Director, the Director may instruct the individual members to make recommendations, and thirty days thereafter may take such action as is otherwise authorized by statute upon the action and report in writing of the Committee.~~
- f) ~~The Committee may request that any hearing officer, any Department attorney, or any attorney representing the Petitioner or Respondent assist in preparing a draft Committee Report for its consideration.~~
- dg) ~~After the Board or ALJ~~When a Committee forwards ~~theits~~ report to the Director, all parties will receive ~~Notice~~ "Twenty Day Notice" with a copy of the report. Within ~~20~~twenty days after ~~the Notice~~such report is sentforwarded, either party may request that a rehearing, or additional hearings, be ordered by the Director. A rehearing shall be ordered by the Director when the Director determines that substantial justice has not been done.
- h) ~~When a Committee is unable to agree on a recommendation, all parties will receive Notice of the date on which individual members are requested to file recommendations. When any member forwards such a recommendation, all parties will receive Notice, and may request a rehearing or additional hearings within twenty days of the date on which the first such recommendation is forwarded; if no recommendation is made, the request will be made within thirty days of the date instructions are given to file individual recommendations.~~
- i) ~~Any member of any Committee may join the Committee in its Recommendation to the Director, or may file a separate dissenting or concurring report at any time, whether or not such individual report is requested by the Director.~~
- ej) ~~When~~Where a rehearing, or additional hearings are requested, the request shall be in the form of a motion, and shall state with specificity the reasons for the request. If it is alleged that new evidence is available ~~that~~which was not available at the time of the hearing, the affidavit shall describe the new evidence, and reasons why it was not available for use at the hearing. The Division may file a response, which shall be filed within 20 days, and, if it does so, the licensee may reply, which shall be filed within 10 days.
- fk) After a motion for rehearing has been filed and a response and reply has been filed or the time therefor has passed, the Director shall enter an Order ruling on

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

any motion for rehearing. If the motion is denied, the Director, in the same Order, shall further adopt, reject or modify the Findings of Fact and Conclusions of Law of the ALJ or the Board or both, adopt or reject the recommendation of the Board or the ALJ, and enter a decision.

- g) An Order of the Director granting a rehearing is not a final order as defined by the Administrative Review Law [735 ILCS 5/Art.III]. An Order of the Director denying a motion for rehearing and entering a decision on the merits of the case is a final Order as defined by the Administrative Review Law and is subject to judicial review.
- h) The Director will not consider motions to reconsider or modify a decision made or Order entered. The proper avenue of relief is to file a complaint under the Administrative Review Law
- i) Whenever the Director enters a final Order under this Section pertaining to a person licensed under the Real Estate License Act of 2000, the Order shall also be served upon the person's managing broker and sponsoring broker. ~~Where a Committee or hearing officer grants any motion which would dispose of the case, it shall first afford the parties an opportunity to cure the defects in pleading or proof, and the ruling will be construed as a recommendation, rather than as a final agency decision; in such a case a Committee Report setting forth the ruling, the reasons therefore, and the effect of the ruling will be forwarded to the Director.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1110.245 Privacy

- a) Any party may use initials or other identifiers to refer to any patient, client, alleged victim, or minor in any filing in place of that person's name. The party so doing shall provide to the opposing party and that party's counsel and to the Administrative Law Judge a document identifying by name that person. This document shall not be a part of the official record of the proceeding and shall not be subject to disclosure to any non-parties or subject to disclosure under the Freedom of Information Act [5 ILCS 140].
- b) The ALJ or Director may seal from public view any portion of an ALJ's or Board's Findings of Fact, Conclusions of Law, and Recommendation or Director's Order that discloses protected health care information or other private information

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

that is protected under federal or State law. Any portion so sealed shall not be subject to disclosure to any non-parties or subject to disclosure under the Freedom of Information Act.

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 1110.246 Record of Hearings

- a) The record of the hearing in a contested case shall include:
- 1) All pleadings presented before the Administrative Law Judge (including the Complaint, Notice of Intent to Deny, Notice of Intent to Refuse to Renew, Answer, Petition, all prehearing and hearing notices, and responses, admissions, stipulations of fact, motions and rulings on these issuances);
 - 2) All documentary evidence;
 - 3) A transcript of the proceedings;
 - 4) The Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer;
 - 5) The Findings of Fact, Conclusions of Law, and Recommendation of the Board;
 - 6) Any motions and responses filed pursuant to the Twenty Day Notice; and
 - 7) The Order of the Director, which shall constitute a final administrative decision within the provisions of the Administrative Review Law.
- b) The record shall be copied and assembled by the Division and certified by the Director upon any complaint for administrative review. The plaintiff in the administrative review shall pay the copying fee and the certification fee established in Sections 2105-115 and 2105-215 of the Civil Administrative Code. An index of the record, with each page of the record numbered in sequence, shall be prepared by the Division.

(Source: Added at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1110.270 Variances

a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~in which~~where he ~~or she~~ finds that:

- a1) The provision from which the variance is granted is not statutorily mandated.~~;~~
- b2) No party will be injured by the granting of the variance.~~;~~
- c3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) ~~The Director shall notify the appropriate Committee of the granting of such variance, and the reasons therefor, at the next meeting of the Committee.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1110.APPENDIX A Caption for a Case Filed by the DivisionDepartment

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF PROFESSIONAL REGULATION (or)

DIVISION OF REAL ESTATE

DEPARTMENT OF FINANCIAL AND

PROFESSIONAL REGULATION

of the State of Illinois,

Complainant

v.

(Name of Respondent)

(License Number)

Respondent

)

)

)

) No.

)

)

)

COMPLAINT

or

NOTICE OF INTENT TO REFUSE TO RENEW

COMPLAINT

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1110.APPENDIX B Caption for a Petition for Restoration

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION (or)
DIVISION OF REAL ESTATE

In RE the Petition for Restoration of)
(Name of Petitioner)) No.
(License Number))
Petitioner)

PETITION FOR HEARING
~~PETITION FOR~~
~~HEARING~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1110.APPENDIX C Caption for an Application for Licensure

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF PROFESSIONAL REGULATION (or)

DIVISION OF REAL ESTATE

IN RE THE APPLICATION FOR LICENSURE OF)	
	)	No.
(Name of Applicant)	Applicant)

PEITION FOR HEARING
PETITION FOR
HEARING

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Home Inspector License Act
- 2) Code Citation: 68 Ill. Adm. Code 1410
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1410.10	Amendment
1410.160	Amendment
1410.170	Amendment
1410.230	Amendment
1410.400	Amendment
- 4) Statutory Authority: Implementing and authorized by the Home Inspector License Act [225 ILCS 441].
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments will implement a continuing education ("CE") deadline and required evidence of compliance for and by Home Inspectors. Beginning in 2020, and for each renewal thereafter, a licensee must complete CE by August 31, a date which is 90 days prior to the License renewal deadline. A licensee who fails to complete required CE by this deadline may complete CE by the license renewal deadline, but will be required to pay an administrative fee for every credit hour completed after the August 31 CE completion deadline.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing services of home inspectors may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Home inspector education and skills are necessary for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1410

HOME INSPECTOR LICENSE ACT

SUBPART A: DEFINITIONS AND APPLICABILITY OF THIS PART

Section

- 1410.10 Definitions
- 1410.20 Applicability of this Part

SUBPART B: LICENSING EDUCATION REQUIREMENTS

Section

- 1410.100 Application for a Home Inspector
- 1410.110 Application for a Home Inspector Entity License
- 1410.120 Application for Non-Resident Home Inspector License by Reciprocity
- 1410.130 Expiration of Home Inspector Licenses
- 1410.140 Renewal of Home Inspector Licenses
- 1410.150 Pre-License Education Requirements
- 1410.160 Continuing Education Requirements
- 1410.170 Issuance of Certificate of Licensure
- 1410.180 Exemptions (Repealed)

SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS

Section

- 1410.200 Standards of Practice
- 1410.210 Notification of Name Change
- 1410.220 Assumed Name
- 1410.230 Mailing Address of Record and Email Change; ~~Street~~ Address of Record
- 1410.240 Work Log of Inspections
- 1410.250 Entities must Utilize Licensed Home Inspectors
- 1410.260 Disclosure of a Conflict of Interest

SUBPART D: ENFORCEMENT PROVISIONS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section

- 1410.300 Grounds for Discipline
- 1410.310 Felony Convictions; Discipline of Other Professional License; Notification
- 1410.320 Cooperation Required with the Division
- 1410.330 Administrative Warning Letter
- 1410.340 Additional Education; Reporting Requirements
- 1410.350 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

SUBPART E: ADMINISTRATIVE PROVISIONS

Section

- 1410.400 Fees
- 1410.410 Duties of the Liaison
- 1410.420 Granting of Variances

SUBPART F: EDUCATION PROVIDER AND COURSE REQUIREMENTS

Section

- 1410.500 Education Provider Application; Requirements
- 1410.510 Pre-License Education Course Requirements of Education Providers
- 1410.520 Pre-License Course Curriculum
- 1410.530 Example of Acceptable Pre-License Education Program
- 1410.540 Continuing Education Course Requirements of Education Providers
- 1410.550 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation other than as a Student
- 1410.560 Distance Education
- 1410.570 Expiration Date and Renewal for Education Providers and Pre-License and Continuing Education Courses
- 1410.580 Continuing Education Reporting
- 1410.590 Transcript or Certificate of Completion

SUBPART G: HEARINGS

Section

- 1410.600 Hearings

AUTHORITY: Implementing and authorized by the Home Inspector License Act [225 ILCS 441].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Emergency rules adopted at 26 Ill. Reg. 13317, effective August 22, 2002, for a maximum of 150 days; adopted at 27 Ill. Reg. 1513, effective January 17, 2003; amended at 27 Ill. Reg. 14180, effective August 15, 2003; amended at 34 Ill. Reg. 8063, effective June 3, 2010; amended at 41 Ill. Reg. 12540, effective October 6, 2017; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND APPLICABILITY OF THIS PART

Section 1410.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for the purposes of this Part.

"Act" means the Home Inspector License Act [225 ILCS 441].

"Board" means the Home Inspector Advisory Board.

"CE Completion Deadline" means August 31 of each even-numbered year.

"Classroom Hour" or "Hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance-learning program approved by the Division.

"Compensation" means the valuable consideration or the intention or expectation of receiving valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall not include a franchise fee paid by a licensee to a franchisor pursuant to the terms of a franchise agreement provided the franchisor does not engage in "home inspection" activity as described in Section 1-10 of the Act. Compensation shall otherwise include the transfer of valuable consideration, including without limitation the following:

commissions;

referral fees;

bonuses;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

prizes;

merchandise;

finder fees;

performance of services;

coupons or gift certificates;

discounts;

rebates;

a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

retainer fee; or

salary.

"Continuing Education" or "CE" means education that is creditable toward the education requirements that must be satisfied to renew licensure or certification, as set forth in Section 1410.160.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Real Estate Professional Regulation, with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Real Estate Professional Regulation.

"Field Inspection Event" means an examination and evaluation of the exterior and interior components of an actual residential real property conducted by a candidate for a home inspection license under the supervision of a licensed home inspector with at least 5 years experience. Field Inspection Events are conducted for the purpose of learning inspection methodology, techniques, communication and observation skills and describing observed conditions. A licensed home

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

inspector can supervise a maximum of 5 licensure candidates in each Field Inspection Event.

"License" means a certificate of authority, permit or registration issued by the Division.

"Licensee" means a person who has been issued a license under the Act or this Part.

"Mailing Address of Record" and "Email Address of Record" means the designated mailing address and email address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. Pursuant to Section 1410.230, it is the duty of the applicant or licensee to inform the Department of any change of address or email address, and those changes must be made by submitting the new information directly to the Department.

"Renewal Deadline" means November 30 of each even-numbered year.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Standards of Practice" or "Standards" means the guidelines for the appropriate conduct of home inspections described in Subpart C.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: LICENSING AND EDUCATION REQUIREMENTS

Section 1410.160 Continuing Education Requirements

- a) A home inspector who makes application to renew his or her Home Inspector License shall successfully complete the equivalent of 6 hours per year of approved continuing education pursuant to Subpart F, preceding the renewal; for example, a total of 12 hours of approved continuing education must be completed during each 2 year renewal cycle. A minimum of 6 hours of continuing education must be approved as mandatory courses, as defined by Subpart F.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) If a home inspector was issued an initial license for less than one year prior to the expiration of the license, no continuing education is required for that renewal. If a home inspector has held a license for more than one year prior to the expiration, but less than two years, 6 hours of approved continuing education is required. A minimum of 3 hours of continuing education must be approved as mandatory courses, as defined by Subpart F.
- c) Beginning in 2020, and for each renewal thereafter, a licensee seeking renewal shall complete CE by the August 31 CE Completion Deadline. The Division shall conduct audits to verify compliance with this Section. If, during an audit, the Division determines that a licensee may be deficient in complying with CE requirements, the Division may notify the licensee of the possible deficiency. The licensee shall have until the November 30 Renewal Deadline to submit to the Division evidence of compliance with CE requirements.
- 1) If satisfactory evidence of compliance with CE requirements is submitted by the November 30 Renewal Deadline that indicates that the licensee complied with the August 31 CE Completion Deadline, the Division will process the licensee renewal.
 - 2) If the licensee cannot submit evidence of having been in compliance with the CE requirements of this Part by the August 31 CE Completion Deadline, the licensee shall have until the November 30 Renewal Deadline to submit evidence of having attained compliance with CE requirements by completing courses offered after the August 31 CE Completion Deadline. The evidence of course completion must be accompanied by an administrative fee of \$100 per credit hour, as prescribed in Section 1410.400, for courses completed after the August 31 CE Completion Deadline. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division will process a license renewal. Credit hours taken or submitted after the August 31 CE Completion Deadline in satisfaction of a CE deficiency may not be used as credit for the next renewal period.
 - 3) If the licensee submits an application for renewal and fails to submit satisfactory evidence of compliance with the CE requirements of this Part, or fails to pay the administrative fee, as prescribed in Section 1410.400, by the November 30 Renewal Deadline, the Department shall refuse to renew the license. That failure shall be evidence of a violation of Section 15-

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

10(a)(1) of the Act regarding misrepresentation in applying for renewal of, or to procure, a license. The Division shall send notice to the licensee indicating the commencement of disciplinary proceedings that may result in public discipline.~~Continuing education may be obtained anytime during the pre-renewal period.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1410.170 Issuance of Certificate of Licensure

The Division shall issue a certificate of licensure ~~and a pocket card~~ to all home inspectors approved for licensure under the Act and this Part. The certificate shall include the name and license number of the home inspector or home inspector entity, address, and the date of expiration.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS

Section 1410.230 Mailing Address of Record and Email Change; Street Address of Record

Pursuant to Section 2105-7 of the Civil Administrative Code of Illinois [20 ILCS 2105], all applicants and licensees shall:

- a) provide a valid mailing address and email address to the Department, which shall serve as the mailing address of record and email address of record, respectively, at the time of application for licensure or renewal of a license; and
- b) inform the Division, in a manner established by the Department, of any change to the mailing address of record and/or email address of record within 14 days after the change. A licensee who fails to notify the Division of any address change shall be responsible for any failure to comply with any notice sent to the licensee by the Division to the extent it may affect his or her license status or penalties assessed by the Division.~~It is the responsibility of each licensee to notify the Division, in writing, of a change of address within 15 days after the change. A licensee may use a Post Office Box number (for example, P.O. Box 1001) as a mailing address, but must additionally notify the Division of a street address of the licensee's residence or business location.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART E: ADMINISTRATIVE PROVISIONS

Section 1410.400 Fees

- a) Initial application fee for a Home Inspector License pursuant to Sections 5-10 and 5-12 of the Act and Sections 1410.100, 1410.110, 1410.120 and 1410.130 of this Part.
 - 1) The application fee for an initial license as a home inspector shall be \$250.
 - 2) The application fee for an initial license as a home inspector entity shall be \$250.
- b) Renewal application fee for a Home Inspector License pursuant to Sections 5-16 and 5-17 of the Act and Section 1410.130 of this Part.
 - 1) The application fee to renew a license as a home inspector shall be calculated at \$200 per year, for a total of \$400 per renewal.
 - 2) The application to renew a home inspector entity license shall be calculated at \$200 per year, for a total of \$400 per renewal.
 - 3) The application fee to renew a home inspector or home inspector entity license that has expired shall be the sum of all lapsed renewal fees, plus a \$50 late fee.
- c) Initial application fee for a license as an education provider, a pre-license course, and a continuing education course.
 - 1) The application fee for a license as an education provider pursuant to Section 20-5 of the Act and Section 1410.570 of this Part shall be \$1,000, plus course application fees.
 - 2) The application fee for a certificate of approval for a pre-license course pursuant to Section 20-10 of the Act and Section 1410.570 of this Part shall be \$100.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 3) The application fee for a certificate of approval for a continuing education course pursuant to Section 20-10 of the Act and Section 1410.570 of this Part shall be \$50.
- d) Application fee to renew a license as an education provider or a certificate of approval for a pre-license course or a continuing education course.
 - 1) The application fee to renew a license as an education provider shall be calculated at \$500 per year, for a total of \$1,000 per renewal.
 - 2) The application fee to renew an education provider license that has expired shall be the sum of all lapsed renewal fees, plus a \$50 late fee.
 - 3) The application fee to renew a certificate of approval for a pre-license course shall be calculated at \$50 per year, for a total of \$100 per renewal.
 - 4) The application fee to renew an expired certificate of approval for a pre-license course shall be the sum of all lapsed renewal fees, plus a \$50 late fee.
 - 5) The application fee to renew a certificate of approval for a continuing education course shall be calculated at \$25 per year, for a total of \$50 per renewal.
 - 6) The application fee to renew an expired certificate of approval for a continuing education course shall be the sum of all lapsed renewal fees, plus a \$50 late fee.
- e) For the purposes of determining if a license has expired under this Section, the Division shall consider the license expired, if the postmark on the renewal application is a date later than the expiration date, or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by the Division on a date after the expiration date.
- f) General
 - 1) All fees paid pursuant to the Act and this Part are non-refundable.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 2) The fee for a certification of a licensee's record for any purpose shall be \$25.
- 3) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
- 4) The fee for an applicant to take the examination for a Home Inspector License shall be the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
- 5) The fee for requesting a waiver of any education requirement provided by the Act and this Part shall be \$50.
- 6) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.
- 7) The fee for certifying any record, for example, a copy of a disciplinary order or application, shall be \$1 per page.
- 8) [The fee for evidence of course completion after the August 31 CE Completion Deadline is \\$100 per credit hour.](#)
- 9) The Division may charge an administrative fee not to exceed \$2,000 as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1410.330.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Auction License Act
- 2) Code Citation: 68 Ill. Adm. Code 1440
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1440.10	Amendment
1440.170	Amendment
1440.190	Amendment
1440.200	Repealed
1440.280	Amendment
1440.300	Amendment
1440.310	Amendment
- 4) Statutory Authority: Implementing and authorized by the Auction License Act [225 ILCS 407].
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments will implement a continuing education ("CE") deadline and required evidence of compliance for and by Auctioneers. Beginning in 2020, and for each renewal thereafter, a licensee must complete CE by September 30, a date which is 90 days prior to the License renewal deadline. A licensee who fails to complete required CE by this deadline may complete CE by the license renewal deadline, but will be required to pay an administrative fee for every credit hour completed after the September 30 CE completion deadline.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing auction services.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Auctioneer education & skills are necessary for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because IDFPD-DRE did not anticipate the need to update this regulation.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1440

AUCTION LICENSE ACT

SUBPART A: DEFINITIONS

Section
1440.10 Definitions

SUBPART B: AUCTION LICENSE

Section
1440.100 Necessity of License; Exemptions
1440.110 Examination
1440.120 Application for Auctioneer License and Auction Firm
1440.130 Application for Licensure, Practice Prior to the Act (Repealed)
1440.140 45 Day Permit Sponsor Card
1440.145 Renewals
1440.150 Restoration of Lapsed or Expired License
1440.160 Nonresident Auctioneer Reciprocity
1440.170 Fees
1440.180 Earnings from the Investment of Moneys in the General Professions Dedicated Fund
1440.190 [Mailing Address of Record and Email Address of Record](#)~~Change, Notification~~
1440.200 Pocket Card [\(Repealed\)](#)
1440.210 Assumed Name
1440.220 Supervisory Duties
1440.230 Advertising; Buyer Premium; Disclosure
1440.240 Unlicensed Assistants
1440.250 Felony convictions; Discipline of Other Professional License; Notification
1440.260 Advertising; Auction without Reserve; Absolute Auction
1440.270 Escrow or Trust Accounts
1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan

SUBPART C: CONTINUING EDUCATION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section

1440.300	Continuing Education Schools Approval and License
1440.310	Continuing Education
1440.320	Expiration and Renewal for Continuing Education Schools and Courses
1440.330	Distance Education Programs
1440.340	Class Attendance Requirements
1440.350	Withdrawal of Approval of School and Courses
1440.360	Discipline of Schools

SUBPART D: INTERNET AUCTION LISTING SERVICE

Section

1440.400	Definitions (Repealed)
1440.410	Registration (Repealed)
1440.420	Expiration of Registration (Repealed)
1440.430	Renewal of Registration (Repealed)
1440.440	Issuance of Certificate of Registration (Repealed)
1440.450	Notification of Name Change (Repealed)
1440.460	Assumed Name (Repealed)
1440.470	Notification of Address Change (Repealed)
1440.480	Fees (Repealed)

AUTHORITY: Implementing and authorized by the Auction License Act [225 ILCS 407].

SOURCE: Adopted by emergency rulemaking at 23 Ill. Reg. 13414, effective October 25, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3518, effective February 22, 2000; amended at 25 Ill. Reg. 12586, effective September 28, 2001; amended at 28 Ill. Reg. 13212, effective September 16, 2004; amended at 33 Ill. Reg. 7077, effective May 14, 2009; amended at 35 Ill. Reg. 7358, effective April 21, 2011; amended at 41 Ill. Reg. 12550, effective October 6, 2017; amended at 42 Ill. Reg. 4569, effective March 9, 2018; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 1440.10 Definitions

"Act" means the Auction License Act [225 ILCS 407].

"Advertisement" means any written, oral, or electronic communication that

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

contains a promotion, inducement, or offer to conduct an auction or offer to provide an auction service, including but not limited to brochures, pamphlets, radio and television scripts, telephone and direct mail solicitation, electronic media, and other means of promotion.

"Advisory Board" or "Board" shall mean the Auctioneer Advisory Board.

"Auction" means the sale or lease of property, real or personal, by means of exchanges between an auctioneer and prospective purchasers or lessees, that consists of a series of invitations for offers made by the auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail or telecommunications.

"Auction Contract" means a written or oral agreement between an auctioneer or an auction firm and a seller, sellers, lessor or lessors.

"Auction Firm" means any corporation, partnership, or limited liability company that acts as an auctioneer and provides an auction service.

"Auction School" means any educational institution, public or private, that offers a curriculum of auctioneer education and training approved by the Division.

"Auction Service" means the service of arranging, managing, advertising or conducting auctions.

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission or any other valuable consideration at auction or with the intention or expectation of receiving value consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

"Buyer Premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, auction firm, seller, lessor or other party to the transaction, other than the purchase price.

"Cashier" means a person who accepts, records and documents payments and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

information from bidders or prospective bidders, and performs other clerical services for and under the direct supervision of a licensed auctioneer or auction firm, while conducting an auction or providing an auction service.

"CE Completion Deadline" means September 30 of each even-numbered year.

"Clerk" means a person who records and documents information and performs other clerical services for and under the direct supervision of an auctioneer or an auction or providing an auction service.

"Compensation" means the valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including but not limited to:

commissions;

fees;

referral fees;

bonuses;

prizes;

merchandise;

finder fees;

performance of services;

coupons or gift certificates;

discounts;

rebates;

a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

retainer fee; or salary.

"Consignment Sale" means the sale or lease of property at an auction, in which a person or entity takes temporary control, title or possession of the property to be sold or leased for the purpose of that person or entity to sell or lease the property, receive and distribute the proceeds of the sale or lease of the property. The person or entity who conducts a consignment sale auction shall not be exempt from licensure under the Act, except for those persons or entities who are other exempt from licensure, as provided by the Act and this Part.

"Continuing Education" or "CE" means ~~continuing~~ education that is creditable toward the education requirements that must be satisfied to renew licensure or certification as set forth in Section 1440.160.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of ~~Real Estate Professional Regulation~~ with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of ~~Real Estate Professional Regulation.~~

"Goods" means chattels, movable goods, merchandise, or personal property or commodities of any form or type that may be lawfully kept or offered for sale.

"Licensee" means any person licensed under the Act.

"Livestock Auctioneer" means an auctioneer licensed under the Act and employed by a business registered as a market agency under the federal Packers and Stockyards Act (7 USC 181 et seq.) or under the Livestock Auction Market Law [225 ILCS 640] who, by public outcry, sells livestock at the registered business.

"Mailing Address of Record" and "Email Address of Record" means the designated mailing address and email address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. Pursuant to Section 1440.190, it is the duty of the applicant or licensee to inform the Department of any change of address or email address, and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

those changes must be made ~~by submitting the new information either through the Department's website or by~~ directly ~~to~~ contacting the Department.

"Managing Auctioneer" means any person licensed as an auctioneer who manages and supervises an auction firm and licensees sponsored by an auction firm or auctioneer.

"Person" shall mean an individual, association, partnership, corporation, limited liability company, or the officers, directors, or employees of the same.

"Pre-renewal Period" means the 24 months prior to the expiration date of a license issued under the Act.

"Renewal Deadline" means December 31 of each even-numbered year.

"Ring Assistant" means a person who acknowledges a bid from a member of the audience during the sale or lease of property at an auction and conveys the bid to the auctioneer, but only the auctioneer may accept the bid for the sale or lease of property at auction.

"School" means a continuing education school approved and licensed in accordance with the Act and this Part.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Sponsor Card" shall mean the temporary permit issued by the sponsoring auctioneer certifying that the licensee named is employed by or associated with the sponsoring auctioneer and the sponsoring auctioneer shall be responsible for the actions of the sponsored licensee.

"Sponsoring Auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed auctioneer.

"Terms and Conditions" means an announcement made orally or in written form at an auction sale, including but not limited to the condition of the property being sold or leased, the type of payment expected from the purchaser, when payment is expected from the purchaser, when possession, control and ownership of the property being sold or leased passes to the purchaser, and any other information

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

that is pertinent to the auction.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: AUCTION LICENSE

Section 1440.170 Fees

- a) The license application fee for an auctioneer for:
 - 1) an initial license application shall be \$200;
 - 2) a renewal application shall be \$225 per year;
 - 3) a renewal application, with fee, that was postmarked after the expiration date of the license, shall be the renewal fee plus a \$50 penalty;
 - 4) a restoration application shall be all lapsed renewal application fees, not to exceed \$675, plus a \$50 penalty and \$25 for a 45 Day Permit Sponsor Card;
 - 5) a 45 Day Permit Sponsor Card application shall be \$25.
- b) The license application fee for an auction firm for:
 - 1) an initial license application shall be \$100;
 - 2) a renewal application shall be calculated at the rate of \$125 per year;
 - 3) a renewal application, with fee, that was postmarked after the expiration date of the license shall be the renewal fee plus a \$50 penalty;
 - 4) a restoration application shall be all lapsed renewal fees, not to exceed \$375, plus a \$50 penalty;
 - 5) a managing auctioneer change application shall be \$25.
- c) The license application fee for an auction school for:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) an initial license application shall be \$2,000;
- 2) a renewal application shall be \$1,000 per year;
- 3) a renewal application, with fee, that was postmarked after the expiration date of the license shall be the renewal fee plus a \$250 penalty.
- d) The license application fee for an auction continuing education course shall be \$50 per course. A duplicate course license shall be \$25.
- e) The fee for a certification of a licensee's record for any purpose shall be \$25.
- f) The fee for copies, license certification and other services shall be the cost of preparing and providing the same, as established by policy of the Division.
- g) The fee for requesting a waiver of continuing education requirements pursuant to Section 10-30 of the Act and Section 1440.310(d)(2) of this Part shall be \$25.
- h) The fee for evidence of course completion after the September 30 CE Completion Deadline is \$100 per credit hour.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1440.190 Mailing Address of Record and Email Address of Record Change, Notification

Pursuant to Section 2105-7 of the Civil Administrative Code of Illinois [20 ILCS 2105], all applicants and licensees shall:

- a) provide a valid mailing address and email address to the Department, which shall serve as the mailing address of record and/or email address of record, respectively, at the time of application for licensure or renewal of a license; and
- b) inform the Division, in a manner established by the Department, of any change to the mailing address of record and/or email address of record within 14 days after the change. Any licensee granted a license under the Act shall notify the Division in writing of any change of business or mailing address within 24 hours after the change. A licensee who fails to notify the Division in writing of any address change shall be responsible for any failure to comply with any notice sent to the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

licensee by the Division to the extent it may affect his or her license status or penalties assessed by the Division.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1440.200 Pocket Card (Repealed)

~~The Division shall issue, along with each license issued under the Act, a pocket card. All licensees shall carry the pocket card at all times and shall display it upon demand. If the licensee is operating on a properly issued 45 Day Permit Sponsor Card, the licensee shall carry a copy of the 45 Day Permit Sponsor Card in lieu of and until a pocket card is issued by the Division.~~

(Source: Repealed at 43 Ill. Reg. _____, effective _____)

Section 1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan

- a) If the Division receives information that a licensee who has been issued a license under the Act has failed to pay or is more than 30 days in arrearage on taxes, court ordered child support or a student loan pursuant to Section 20-20 of the Act, the Division shall notify, ~~by certified mail, return receipt requested,~~ a licensee that his or her license will be automatically terminated in 30 days from the date of the notice, unless the appropriate administering agency provides to the Division information and proof that the licensee has corrected the failure to pay the arrearage.
- b) The licensee may request a hearing on the termination, but the hearing shall be limited to the presentation of evidence on the issues of mistaken identity, proof that the respondent has entered into a payment plan or that the debt has been discharged in bankruptcy.
- c) The Division and the Board shall not hear evidence as to whether a licensee has failed to pay or is in arrearage on the payments. The responsibility for the hearing of evidence is with the appropriate administering agency.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART C: CONTINUING EDUCATION

Section 1440.300 Continuing Education Schools Approval and License

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Approval of continuing education (CE) schools. Those entities seeking approval as CE schools shall maintain an office for maintenance of all records, office equipment and office space necessary for customer service.

- a) The CE school's office may be subject to inspection by authorized representatives of the Division during regular working hours and upon at least 24 hours' notice when the Division has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.
- b) The Division shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector in the course of the inspection.
- c) Entities seeking approval as CE schools shall file a CE school application, on forms provided by the Division, along with the required fee. The application shall include the following:
 - 1) An agreement by the applicant that the applicant shall provide to the Division, upon request, a schedule including location, date, time and name of instructor of each CE course to be offered;
 - 2) The CE school's certification:
 - A) that the content areas of all CE courses offered by the CE school for CE credit will conform to those listed in this Part;
 - B) that all CE courses offered by the CE school for CE credit will comply with the criteria in this Section;
 - C) the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school on forms provided by the Division. Further, that the school will maintain these records for not less than 5 years and shall make these records available for inspection by the Division during regular business hours;
 - D) that, upon request by the Division, the CE school will submit evidence as is necessary to establish compliance with this Section. The evidence shall be required when the Division has reason to

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

- E) that the CE school will only offer CE, other than self-study CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendees; and
 - F) that financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with this Section and this Part, documented by a current balance sheet, an income statement or any similar evidence requested by the Division.
- d) CE schools approved to offer the courses shall be deemed to be approved to offer CE programs upon completion of an application for approval and submission of the fee required by Section 1440.170.
- e) Within 30 days after the action by the Auction Advisory Board and the Division, the Division shall issue an approval and license to the CE school or notify the CE school, in writing, why approval cannot be issued.
- f) Approved CE schools shall comply with the following:
- 1) No approved CE school shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit new affiliates for any company. CE schools and CE instructors shall report to the Division any efforts to recruit licensees.
 - 2) No approved CE school shall advertise that it is endorsed, recommended, or accredited by the Division. The CE school, however, may indicate that the school and the CE course have been approved and licensed by the Division.
 - 3) Approved CE schools shall utilize in the teaching of approved CE courses only CE instructors who are qualified and knowledgeable in the content offered in the course.
 - 4) Approved CE schools shall specify in any advertising promoting CE

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, approved CE schools shall specify the number of mandatory or elective CE course hours that may be earned by successfully completing the course.

- 5) All CE courses given by approved CE schools shall be open to all licensees and not be limited to members of a single organization or group.
- g) The CE school shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.
- h) To maintain approved CE school status, each CE school shall submit, prior to December 31 of odd numbered years, a school renewal application along with the required fee.
- i) Each approved CE school shall submit to the Division on or before the 15th of each month a graduation report of those licensees passing approved CE courses offered by it during the preceding calendar month.
 - 1) If a CE school during the preceding calendar month gave no courses, that CE school shall report in writing that no courses were given.
 - 2) The monthly graduation reports may be submitted in a computer readable format specified by the Division.
 - 3) There is no processing fee for a monthly graduation report submitted in the computer readable format specified by the Division. Each monthly graduation report submitted on paper or in a format other than that specified by the Division shall be accompanied by a processing fee of \$.50 per student, per course, listed on the report, payable by check to the Division.
 - 4) A monthly graduation report received by the Division with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of \$200 in addition to the fees set forth in subsection (i)(3).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 5) If a CE school fails to file monthly graduation reports or a statement saying that none were given, or fails to pay required fees, if any, as set forth in subsections (i)(3) and (4), for three successive months, then the courses offered by that school may be disqualified until all delinquent graduation reports, processing fees, and administrative fees as set forth in subsections (i)(3) and (4) have been submitted to and are received by the Division. The Division shall send notice to the school of an informal conference before the Board and of pending disqualification, ~~by certified or registered mail, return receipt requested, or by other signature restricted delivery service.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1440.310 Continuing Education

- a) Continuing Education Requirements
 - 1) In accordance with Section 10-30 of the Act, during each pre-renewal period, prior to the expiration date of the license, each auctioneer who makes application to renew his or her license must successfully complete 12 hours of auction continuing education courses approved by the Division from a school reviewed by the Board and approved by the Division.
 - 2) Auctioneers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 10-30 of the Act and this Section.
 - 3) The Division shall conduct random audits to verify compliance with this Section.
 - 4) Beginning in 2020, and for each renewal thereafter, a licensee seeking renewal shall complete CE by the September 30 CE Completion Deadline. The Division shall conduct audits to verify compliance with this Section. If, during an audit, the Division determines that a licensee may be deficient in complying with CE requirements, the Division may notify the licensee of the possible deficiency. The licensee shall have until the December 31 Renewal Deadline to submit to the Division evidence of compliance with CE requirements.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) Approved Continuing Education
- 1) CE credit may be earned for verified attendance at or participation in an approved course that is licensed by the Division, and is offered by an approved CE school that is licensed by the Division, that meets the requirements set forth in Section 1440.300 of this Part.
 - 2) CE credit may also be earned for completion of a distance education course that is offered by an approved CE school that meets the requirements set forth in Section 1440.330 of this Part.
 - 3) The requirement that CE be obtained through a curriculum reviewed by the Board and approved by the Division shall be satisfied by successful completion of the following:
 - A) Mandatory category. Each renewal applicant shall successfully complete 12 hours of CE, of which 6 hours shall be mandatory core subjects in the following categories:
 - i) Illinois statutes and rules governing auctioneering;
 - ii) federal statutes and regulations governing auctioneering;
 - iii) auctioneering ethics;
 - iv) escrow and trust accounts;
 - v) contracts; and
 - vi) other subject matter recommended by the Board.
 - B) Elective category. Each renewal applicant may satisfy the remaining 6 hours of CE from the mandatory core subjects categorized in subsection (b)(3)(A), or may successfully complete an additional 6 hours of CE in the following elective subject categories:
 - i) agency;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- ii) business courses related to auctioneering;
 - iii) real estate related courses;
 - iv) auction management;
 - v) bid calling;
 - vi) public speaking;
 - vii) advertising;
 - viii) specialty auction courses; or
 - ix) other subject matter recommended by the Board.
- 4) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination set forth in subsection (b)(6).
- 5) Each CE course shall include one or more subjects from either the mandatory category or elective category set forth in subsection (b)(3)(A) or (B), when the individual is in actual attendance, or participates in, or completes distance education. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics in the core or elective category. In no case shall topics from the mandatory and elective category be combined within the same three-hour period. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the mandatory or elective category.
- 6) Each CE course shall include the successful completion of an examination that measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.
- A) The examination shall be given on-site immediately following any

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

CE course. When a sequence of courses is offered, the examination will be given at the end of each individual course on material that covers all the aspects of the course.

- B) All examinations, including distance education examinations and retake examinations, shall be proctored by a representative of the approved CE school and shall include at least 25 questions for each three-hour period.
 - C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for the CE course unless the entire course is retaken and the examination is successfully completed.
- 7) Distance education CE shall comply with all of the requirements of this Section, except that:
- A) Verified attendance is only required for taking the examination.
 - B) Classroom instruction is not required for distance education CE, as the intent is for the licensees to review and learn the material on their own.
 - C) The examination site for distance education shall be determined by the CE school and it shall be proctored by a representative of the approved sponsor. An instructor is not required to proctor the examination.
- 8) All CE courses shall:
- A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of auctioneering.
 - B) Provide experiences (e.g., role playing, lectures, films) that contain subject matter and course materials relevant to that set forth in this

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section.

- C) Be developed and presented by persons with education and/or experience in subject matter of the CE course.
- 9) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or satellite communication with two-way voice interaction in assisting in the presentation of CE courses.
- 10) CE credit may be earned by an instructor for teaching an approved CE course. Credit for teaching an approved CE course may only be earned one time per course during the instructor's pre-renewal period. One hour of teaching is equal to one hour of CE.
- 11) The CE school shall notify the Division when more than 6 hours of CE is offered in any calendar day. This notification shall be submitted to the Division at least 2 weeks prior to the CE course offering.
- c) Certification of Compliance with CE Requirements
- 1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b) of this Section.
- 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion). It is the responsibility of each renewal applicant to provide the additional evidence during an audit as proof of CE completed.
- 3) When, during an audit or compliance review, the Division determines that a licensee may be deficient in complying with CE requirements, the Division will notify the licensee, and the sponsoring auctioneer of the licensee, ~~by certified or registered mail, return receipt requested, or other signature restricted delivery service,~~ of the possible deficiency. The licensee shall have until the December 31 Renewal Deadline to submit to the Division evidence of compliance with CE requirements. The licensee shall have 60 days from the date the deficiency notification is received to submit to the Division evidence of compliance with CE requirements.
- A) If satisfactory evidence of compliance with CE requirements (as

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

set forth in subsection (c)(2) ~~of this Section~~) is submitted by the December 31 Renewal Deadline that indicates that licensee complied with the September 30 CE Completion Deadline, the Division will process the license renewal ~~shall notify the licensee by first class mail that the licensee is in compliance.~~

- B) If the licensee cannot submit evidence of having been in compliance with CE requirements by the September 30 CE Completion Deadline, the licensee shall have until the December 31 Renewal Deadline to submit evidence of having attained compliance with CE requirements by completing courses offered after the September 30 CE Completion Deadline. The evidence of course completion must be accompanied by an administrative fee of \$100 per credit hour, as prescribed in Section 1440.170, for courses completed after the September 30 CE Completion Deadline. The evidence will not be considered if the required fee is not submitted. If the evidence is satisfactory, the Division will process a license renewal. Credit hours taken or submitted after the September 30 CE Completion Deadline in satisfaction of a CE deficiency may not be used as credit for the next renewal period. ~~has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of \$25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division shall notify the licensee and the sponsoring auctioneer of the licensee that the license is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- C) If the licensee submits an application for renewal and fails to submit ~~within the 60 day notice period~~ satisfactory evidence of compliance with CE requirements, or fails to pay any administrative fee, as prescribed in Section 1440.170, on or before the December 31 Renewal Deadline, the Department shall refuse to renew the license. ~~That~~the failure shall be evidence of a violation of Section 20-15(1) of the Act regarding false or fraudulent representation to obtain a license. The Division shall send notice pursuant to Section 20-5 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring auctioneer of the licensee.
- d) Waiver or Extension of CE Requirements
- 1) An auctioneer is exempt from the continuing education requirements if it is his or her first renewal.
 - 2) As provided for in Section 10-30 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a \$25 processing fee within 90 days after completion of the CE course and prior to expiration of the license. The Board shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent, the Board shall use the criteria in Section 1440.310(b).
 - 3) Any renewal applicant seeking renewal of the license or certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning the noncompliance, a request for waiver or extension of the CE requirements on the basis of those facts and, if desired, a request for an interview before the Board. If the Division finds from the statement or any other evidence submitted that good cause has been shown for granting a waiver or extension of the CE requirements, or any part of the requirements, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the renewal period;
 - B) A temporary, incapacitating illness documented by a licensed physician. A second consecutive request for a CE waiver pursuant to this subsection (d)(4)(B) shall be prima facie proof that the renewal applicant has a physical illness, mental illness, or other impairment including, without limitation, deterioration through the aging process, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill and safety, in violation of Section 20-15(24) of the Act, which shall be grounds for denial of the renewal or other discipline;
 - C) Temporary undue hardship (e.g., hospitalization or being disabled and unable to practice auction on a temporary basis).
- 5) If an interview is requested at the time the request for waiver or extension is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview ~~by certified mail, return receipt requested.~~
- 6) Any renewal applicant who submits a request for waiver or extension pursuant to subsection (d)(3) shall be deemed to be in good standing until the Division's final decision on the application has been made.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Revocation Procedures for Conservation Offenses
- 2) Code Citation: 17 Ill. Adm. Code 2530
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
2530.20	Amendment
2530.230	Amendment
2530.250	Amendment
2530.255	Amendment
2530.270	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add the ability to revoke licenses pertaining to Herptiles-Herp Act pursuant to PA 98-752.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

John Heidinger, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/557-6379

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICESPART 2530
REVOCATION PROCEDURES
FOR CONSERVATION OFFENSES

SUBPART A: GENERAL RULES

Section	
2530.10	Applicability
2530.20	Definitions
2530.30	Filing
2530.35	Parties
2530.40	Documents
2530.50	Computation of Time
2530.60	Appearances

SUBPART B: SUMMARY REVOCATION/SUSPENSION
BASED ON ACCUMULATION OF POINTS

Section	
2530.110	Applicability (Recodified)
2530.130	Rules Proposed by Member of Public (Recodified)
2530.140	Authorization of Hearing (Recodified)
2530.150	Notice of Hearing (Recodified)
2530.160	Hearing Officer (Recodified)
2530.180	Written Submission (Recodified)
2530.190	Record (Recodified)
2530.200	Revision of Proposed Rules (Recodified)
2530.210	Filing and Publication of Final Rules (Recodified)
2530.220	Applicability
2530.230	Point System
2530.240	Points
2530.245	Single Incident Rule
2530.250	Groups
2530.255	Types of Offenses
2530.260	Computation of Suspension Period

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 2530.270 Summary Revocation/Suspension Procedures
- 2530.275 Notice of Revocation/Suspension
- 2530.280 Request for Hearing to Appeal Summary Revocation/Suspension

SUBPART C: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS
BASED UPON COURSE OF CONDUCT

Section

- 2530.300 Department Initiated Revocation/Suspension Based Upon Course of Conduct
- 2530.310 Applicability
- 2530.320 General Procedures (Repealed)
- 2530.330 Parties (Renumbered)
- 2530.340 Notice and Complaint (Department Initiated Proceeding) (Renumbered)

SUBPART D: HEARINGS OF CONTESTED CASES

- 2530.350 Service (Department Initiated Proceeding) (Repealed)
- 2530.355 General Procedures of Hearings
- 2530.360 Time and Location of Hearing
- 2530.370 Prehearing Conferences
- 2530.380 Authority of Hearing Officer
- 2530.390 Order of Administrative Hearings
- 2530.400 Official Notice
- 2530.410 Default
- 2530.420 Evidence
- 2530.430 Motions and Answers
- 2530.470 Administrative Record
- 2530.480 Briefs and Oral Arguments
- 2530.482 Decision, Order and Disposition
- 2530.484 Compelling Appearance at Hearing
- 2530.486 Recording of Hearing
- 2530.488 Hearing on Timber Buyers – Second and Subsequent Suspensions
- 2530.490 Decision and Order (Repealed)

SUBPART E: INTERSTATE WILDLIFE VIOLATOR COMPACT

Section

- 2530.500 Interstate Wildlife Violator Compact Membership

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: REINSTATEMENT OF PRIVILEGES

Section

2530.600 Reinstatement Procedures

2530.610 Reinstatement Fees

SUBPART G: STATUTORILY MANDATED SUSPENSIONS

Section

2530.700 Suspension of Operating Privileges

SUBPART H: EVICTION FROM DEPARTMENT LANDS

Section

2530.800 Applicability

2530.810 Immediate Eviction and Removal from Department Lands for up to 90 Days

2530.820 Request for Hearing to Appeal Immediate Eviction and Removal

2530.830 Eviction and Removal from Department Lands for Longer than 90 Days

2530.840 Department Request for Eviction and Removal Longer than 90 Days

2530.850 Procedures for Eviction/Removal Hearings

AUTHORITY: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].

SOURCE: Filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Subpart B recodified to 2 Ill. Adm. Code 825: Subpart B at 8 Ill. Reg. 4133, effective March 19, 1984; amended at 10 Ill. Reg. 20201, effective November 25, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. 3659, effective February 26, 2001; amended at 25 Ill. Reg. 14126, effective October 22, 2001; amended at 28 Ill. Reg. 9990, effective July 6, 2004; amended at 31 Ill. Reg. 9215, effective June 18, 2007; amended at 32 Ill. Reg. 17481, effective October 24, 2008;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

amended at 35 Ill. Reg. 13268, effective July 26, 2011; recodified at 38 Ill. Reg. 6747; amended at 38 Ill. Reg. 17001, effective July 25, 2014; amended at 43 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 2530.20 Definitions

In this Part the following terms shall have the meanings ascribed:

"Arrest" means the issuance of a State or federal citation or a notice to appear, or the filing of a complaint by a State or federal prosecutor.

"Contested case" means an adjudicatory proceeding, not including rate making, rulemaking, quasi-legislative, informational or similar proceedings, in which the individual legal rights, duties or privileges of a party are required by law to be determined by an agency only after an opportunity for hearing. [5 ILCS 100/1-30]

"Department" means the Illinois Department of Natural Resources. [520 ILCS 5/1.2d]

"Determination of guilt by a court of law" means a case disposition, including supervision or conditional discharge, by a circuit court of the State of Illinois or a United States District Court in an Illinois District for an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Timber Buyers Licensing Act [225 ILCS 735], the Ginseng Harvesting Act [525 ILCS 20], the Endangered Species Protection Act [520 ILCS 10], [the Herptiles-Herps Act \[510 ILCS 68\]](#) or any violation of similar federal statutes or rules.

"Director" means the director of the Illinois Department of Natural Resources. [520 ILCS 5/1.2e]

"Hearing Officer" means the presiding officer or officers at the initial hearing before the Department and each continuation. [5 ILCS 100/1-15]

"License" includes the whole or part of any Department permit, stamp, license, certificate, approval, registration, or similar form or permission required by law.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

[5 ILCS 100/1-35]

"Licensing" includes the Department procedures respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. [5 ILCS 100/1-40]

"Office of Law Enforcement" means the Department of Natural Resources' Office of Law Enforcement.

"Party" means such person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. [5 ILCS 100/1-55]

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency. [5 ILCS 100/1-60]

"Single incident" means a set of acts or events occurring at the same location, date and time giving rise to violations of State or federal laws.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

SUBPART B: SUMMARY REVOCATION/SUSPENSION

Section 2530.230 Point System

- a) Any person found guilty by a circuit court of the State of Illinois (including supervision or conditional discharge) or a United States District Court in an Illinois District of an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code, the Wildlife Code, the Timber Buyers Licensing Act, the Ginseng Harvesting Act, the Endangered Species Act, [the Herptiles-Herps Act](#) or any similar violation of federal statutes or rules, or any violation under Section 48-3(b) of the Criminal Code of 2012 [720 ILCS 5/48-3(b)] shall be assessed points as set out in Section 2530.240.
- b) Licenses, permits and stamps shall be revoked, and privileges shall be suspended, based upon the accumulated points. The assessed accumulated points remain until:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) In cases involving Type I offenses (see Section 2530.255), 18 months has elapsed since the date of arrest for offense;
- 2) In cases involving Type II offenses, 36 months has elapsed since the date of arrest for offense;
- 3) An order of the Circuit Court or the Director terminates the suspension and the applicable reinstatement fee has been paid and processed by the Department; or
- 4) An order of the Circuit Court has expunged the underlying record of the offense, the Office of Law Enforcement has received notice of the expungement, and the applicable reinstatement fee has been paid.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 2530.250 Groups

- a) Group A = Wildlife Code, Endangered Species Protection Act – Wildlife, Federal Offenses – Wildlife, ~~and~~ Section 48-3(b) of the Criminal Code of 2012 – Wildlife, and Herptiles-Herps Act.
- b) Group B = Fish and Aquatic Life Code, Endangered Species Protection Act – Aquatic Life, Federal Offenses – Aquatic Life, ~~and~~ Section 48-3(b) of the Criminal Code of 2012 – Aquatic Life, and Herptiles-Herps Act.
- c) Group C = Timber Buyers Licensing Act.
- d) Group D = Ginseng Harvesting Act, Endangered Species Protection Act – Plants, Federal Offenses – Plants.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 2530.255 Types of Offenses

- a) Type I Offenses = Those offenses related to commercial/business activities covered under Timber Buyer, Taxidermist, Aquaculture, Aquatic Life Dealer, Herptile, Minnow Dealer, Mussel Dealer, Commercial Roe Dealer, Commercial Fisherman, Commercial Mussel, Commercial Roe Harvester, Game and Game

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Bird Breeder, Wild Game Food Dealer, Furbearing Animal Breeder, Fur Tanner, Class A Nuisance Wildlife Control Operator, Migratory Waterfowl Hunting Area or Charter Fishing licenses and permits.

- b) Type II Offenses = All other offenses related to activities covered under licenses and permits and offenses of hunter or fisherman interference under the Criminal Code. (Example: hunting, trapping, sport fishing, etc.)

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 2530.270 Summary Revocation/Suspension Procedures

- a) All Illinois Circuit Court clerks shall report to the Office of Law Enforcement, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, the disposition of cases involving a violation of any of the provisions of the Fish and Aquatic Life Code, the Wildlife Code, the Timber Buyers Licensing Act, the Ginseng Harvesting Act, the Endangered Species Protection Act, [the Herptiles-Herps Act](#) and Section 48-3(b) of the Criminal Code of 2012.
- b) Points shall be assessed to the individual by the Office of Law Enforcement once reports of disposition are received from the circuit clerk. The Department shall not be responsible or liable for the delay or failure of a circuit clerk in the reporting of dispositions. Any delay or failure of a circuit clerk in the reporting of dispositions does not affect the Department's ability to revoke or suspend privileges pursuant to this Part.
- c) Whenever sufficient points have been accumulated for suspension as set out in Section 2530.260, the suspension shall be imposed by the Department on a quarterly basis as follows:
- 1) For any dispositions received during the first quarter of the calendar year (January-March), suspensions shall begin on April 30.
 - 2) For any dispositions received during the second quarter of the calendar year (April-June), suspensions shall begin on July 30.
 - 3) For dispositions received during the third quarter of the calendar year (July-September), suspensions shall begin on October 30.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 4) For dispositions received during the fourth quarter of the calendar year (October-December), suspensions shall begin on January 30.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Fire Prevention and Safety
- 2) Code Citation: 41 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
100.1	Amendment
100.2	New Section
100.3	Amendment
100.7	Amendment
100.8	New Section
100.9	New Section
100.10	New Section
100.11	New Section
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].
- 5) A Complete Description of the Subjects and Issues Involved: Pursuant to Section 9 of the Fire Investigation Act [425 ILCS 25/9], this rulemaking promulgates rules necessary to protect the public from the dangers of fire, structural collapse, and insufficient means of egress in an emergency, by updating the referenced NFPA 101 (2000 edition) to the 2015 edition, with certain modifications. The rulemaking also deletes the previous requirements found in 41 Ill. Adm. Code 100.7 pertaining to permanently moored vessels as those rules are being simultaneously relocated, creating new rule Part 149.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: The sources of underlying data used to compose this rulemaking include information obtained from the Illinois Fire Incident Reporting System (IFIRS) relative to fires in Illinois; the Report on the Cook County Building fire produced by the Witt Commission and the provisions of the National Fire Protection Association Life Safety Code, NFPA 101.
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking establishes the minimum life safety standards for the State for both new and existing occupancies.
- 12) Time, Place, and Manner in which interested persons may comment on this rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Cathy Stashak
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2425
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This administrative rulemaking is applicable to all new and existing small businesses and not-for-profit corporations in the State with a covered occupancy.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

The full Text of the Proposed Amendments begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 100
FIRE PREVENTION AND SAFETY

Section

- 100.1 Introduction
- [100.2 Definitions](#)
- 100.3 Title; Jurisdiction; Powers; [Responsibility of Owners, Occupants or Lessees](#); Penalties; Right of Entry; [Reference to Documents](#); [Fire Prevention and Safety Standards Equal to or Higher Than this Part](#)~~Existing Structures~~
- 100.4 Building Construction Types (Repealed)
- 100.5 Fire Areas (Repealed)
- 100.7 Adoption of NFPA [Codes and Standards](#)~~101, Life Safety Code by Reference~~
- [100.8 Historic Structures](#)
- [100.9 More Recent Editions of the Code](#)
- [100.10 Appeal of an Administrative Action](#)
- [100.11 Severability](#)
- 100.110 Modification of NFPA 101 (1985) for Existing Day Care (Repealed)
- 100.APPENDIX A Modification of Standards Referenced in NFPA 101 (Repealed)

AUTHORITY: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9].

SOURCE: Illinois Rules and Regulations for Fire Prevention and Safety, amended September 24, 1973; amended January 8, 1974; Rules and Regulations relating to Fireworks filed October 8, 1974; codified at 5 Ill. Reg. 10673; amended at 6 Ill. Reg. 13021, effective December 15, 1982; amended at 7 Ill. Reg. 16399, effective January 1, 1984; amended at 9 Ill. Reg. 1009, effective July 1, 1985; Sections 100.81, 100.82 and 100.85 recodified to 41 Ill. Adm. Code 105.5, 105.10 and 105.20 at 11 Ill. Reg. 5992; Part repealed, new Part adopted at 12 Ill. Reg. 8017, effective August 1, 1988; emergency amendment at 13 Ill. Reg. 582, effective January 3, 1989, for a maximum of 150 days; emergency expired June 2, 1989; amended at 13 Ill. Reg. 12547, effective July 14, 1989; amended at 17 Ill. Reg. 19127, effective November 1, 1993; amended at 20 Ill. Reg. 13086, effective September 20, 1996; amended at 21 Ill. Reg. 8932, effective July 15, 1997; amended at 22 Ill. Reg. 21330, effective December 15, 1998; amended at 25 Ill. Reg.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

11919, effective January 1, 2002; amended at 27 Ill. Reg. 3360, effective April 1, 2003; amended at 43 Ill. Reg. _____, effective _____.

Section 100.1 Introduction

Pursuant to authority conferred upon the Office of the State Fire Marshal ~~Office (OSFMthe Office)~~ by Section 9 of ~~the Fire Investigation Act [425 ILCS 25], this Part is "AN ACT in relation to the investigation and prevention of fire," (Ill. Rev. Stat. 1985, ch. 127½, par. 9) the following rules are hereby~~ adopted to establish the OSFM requirements for ~~in relation to~~ the investigation and prevention of fire and dangerous conditions in and near buildings and other structures.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 100.2 Definitions

"Act" means the Fire Investigation Act [425 ILCS 25].

"Authority Having Jurisdiction" or "AHJ" means the OSFM and local government authorities.

"Fire Safety Evaluation System" or "FSES" means a fire risk indexing approach to determining equivalencies to NFPA 101 for certain occupancies.

"Life Safety Code" or "NFPA 101" means NFPA 101, Life Safety Code as incorporated by reference in Section 100.7.

"Local Government Authorities" means those organizations that are the political governing unit of a county, district or municipality that enforces laws, regulations or ordinances within its specific geographical area.

"NFPA" means the National Fire Protection Association.

"OSFM" means the Office of the State Fire Marshal.

"State Fire Marshal" means the State Fire Marshal, his or her deputies, inspectors or designees.

(Source: Added at 43 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section 100.3 Title; Jurisdiction; Powers; Responsibility of Owners, Occupants or Lessees; Penalties; Right of Entry; Reference to Documents; Fire Prevention and Safety Standards Equal to or Higher Than this Part Existing Structures

- a) Title
This Part shall be known and cited as the Fire Prevention and Safety Rules. ~~They shall be referred to hereinafter as this Part.~~
- b) Jurisdiction
The provisions of this Part shall apply to ~~all~~ localities within Illinois, pursuant to State and federal law.
- c) Powers
- 1) ~~OSFMThe Office~~ is authorized and directed to enforce the ~~provisionsprovision~~ of this Part (see 425 ILCS 25/9). The State Fire Marshal shall make, or cause to be made, inspections of buildings, structures and premises to determine ~~their~~ conformity of those buildings, structures and premises with ~~the provisions of~~ this Part and to ensure their safety to life and property from fire or other emergency requiring evacuation of the building, structure or premises ~~(such as presence of explosive or flammable gasses, fume hazard, and power failure).~~
 - 2) All local officers charged with the duty of investigating fires shall enforce this Part, under the direction of OSFM, except in those localities that have adopted fire prevention and safety standards equal to or higher than the standards adopted by this Part [425 ILCS 25/9].
 - 3) ~~OSFMThe Office~~ will inspect buildingsbuilding based upon requests from agencies of ~~Statestate~~ and local government, complaints from the public, known or observed violations, potential for loss of lives from fire in given occupancies where statutes or ~~rules or regulations~~ mandate inspections by ~~OSFMthe Office~~ or where an inspection of a structure or an occupancy is necessary to prevent fire or to minimize the dangers of fire. The inspections shall be conducted, in accordance with this Part, subject to available resources.
 - 4) OSFM shall allow the use of the edition of NFPA 101, Life Safety Code currently adopted by the federal Centers for Medicare and Medicaid

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Services (CMMS) in occupancies subject to CMMS regulatory authority or reimbursement requirements.

5) Except as otherwise provided by statute or interagency agreement, all State-owned buildings and buildings that fall under the scope of the Fire Sprinkler Dormitory Act [110 ILCS 47] and the Greek Housing Fire Safety Act [110 ILCS 130] are subject to inspection by OSFM and are required to comply with NFPA 101, Life Safety Code (2015) as adopted by this Part.

d) Responsibility of Owners, Occupants or Lessees
It is the responsibility of the owner, occupant or lessee to ensure his or her building and occupancy comply with this Part or a code that provides a degree of fire safety equal to or higher than that required by this Part.

e) Penalties
The penalties for violation of ~~the provisions of this Part~~ shall be those stated in such as are provided in Section 9e of the Fire Investigation Act [425 ILCS 25/9e].

f) Right of Entry
OSFM and the officers of cities, villages, towns, and fire protection districts charged with the duty of investigating fire by the Act shall, under the direction of OSFM, inspect and examine, at reasonable hours, any premises and the building and other structures on that premises to determine whether there are any violations of this Part or of the local ordinances for the protection of life and property from fire or other dangerous condition [425 ILCS 25/9]. Local AHJs ~~The State Fire Marshal, his subordinates, the fire chief of any city, town, village, or fire protection district, or a subordinate delegated by said fire chief shall have the right within their respective geographical area of responsibility to enter any building or structure at any reasonable time for the purpose of making an inspection to determine whether or not there are any violations of this Part or the local ordinances for the protection of life and property from fire or other emergency. The inspector shall obtain permission from the owner, occupant, or other interested party to inspect and conduct an inspection at any reasonable time (generally, during regular business hours). Local officials having jurisdiction are empowered and directed to invoke any provisions of this Part to enforce correction of any condition hazardous to life and property from fire or other emergency.~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- f) Reference to Documents
~~Wherever a document is incorporated by reference in this Part, a copy of the document shall be kept on file in the Office, and shall be available for public inspection. Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.~~
- g) Fire Prevention and Safety Standards Equal to or Higher Than This Part~~Where the term 'the authority having jurisdiction' is used, it shall mean the Office. OSFM may consider codes adopted by local AHJs to be equal to or higher than this Part (as that phrase is used in Section 9 of the Act) when the code meets one or more of the following six criteria:~~
- 1) The local AHJ has demonstrated, to the satisfaction of OSFM, that the code adopted by the local AHJ is identical in its entirety to this Part;
 - 2) The local AHJ has demonstrated, to the satisfaction of OSFM, that the code adopted by the local AHJ incorporates every provision of this Part in its entirety, as well as providing more stringent requirements;
 - 3) The local AHJ has demonstrated, to the satisfaction of OSFM, that the code adopted by the local AHJ incorporates a subsequent edition of NFPA 101, Life Safety Code in its entirety (see Section 100.9);
 - 4) The code adopted by the local AHJ is the subject of an agreement between that local AHJ and OSFM in which OSFM has attested to the fact that the local AHJ's code is equal to or higher than this Part;
 - 5) The local AHJ has demonstrated, to the satisfaction of OSFM, that the code adopted by the local AHJ is included in a publication by OSFM that identifies national model codes considered by OSFM to be equal to or higher than this Part; or
 - 6) The local AHJ has otherwise demonstrated, to the satisfaction of OSFM, that its local code is equal to or higher than this Part, based upon all of the following factors:
 - A) The Chief local official charged with the duty of investigating fires under the Act affirmatively asserts in writing that the local

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

authority uses a fire and life safety code that is equal to or higher than this Part when viewed holistically in its entirety;

- B) OSFM concurs that the local authority uses a fire and life safety code that is equal to or higher than this Part when viewed holistically in its entirety;
- C) The local authority has a dedicated fire prevention inspection capability;
- D) The local authority has its own dedicated administrative enforcement capability; and
- E) The local authority has its own dedicated civil/criminal enforcement capability.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 100.7 Adoption of NFPA 101, Codes and Standards~~Life Safety Code by Reference~~

~~The Office of the State Fire Marshal adopts the "Code for Safety to Life from Fire in Buildings and Structures" as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code.~~

- a) OSFM hereby adopts the nationally-recognized standards, codes and guides listed as incorporated standards in subsection (b), subject to OSFM modifications listed in subsection (c). Standards incorporated by reference in this Part do not include any later editions or amendments, unless explicitly stated otherwise in this Part.~~The Life Safety Code becomes the code for Fire Prevention and Safety subject to the modifications set forth in this Part. NFPA 101, Life Safety Code (2000 edition) is on file with the Office of the State Fire Marshal at the following locations:~~

~~1035 Stevenson Drive
Springfield, Illinois 62703-4259~~

~~State of Illinois Building
100 W. Randolph Street
Chicago, Illinois 60601~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

~~2209 West Main Street
Marion, Illinois 62959~~

~~Copies are available for purchase from:~~

~~National Fire Protection Association
Batterymarch Park
Quincy MA 02269~~

- b) Incorporated Standards
National Fire Protection Association
Batterymarch Park
Quincy MA 02269

NFPA 101, Life Safety Code (2015) (adopted in its entirety, subject to the OSFM modifications in subsection (c)).

NFPA 101, Life Safety Code (2000) (only to the extent cited in subsections (c)(1), (c)(2) and (c)(6)).

NFPA 101A, Guide on Alternative Approaches to Life Safety (2016).

NFPA 101A, Guide on Alternative Approaches to Life Safety (2001) (only to the extent cited in subsection (c)(1)).

NFPA 914, Code for Fire Protection of Historic Structures (2010) (only to the extent cited in Section 100.8).

NFPA 80, Standard for Fire Doors and Other Opening Protectives (2013) (only to the extent cited in subsection (c)(10)(I)).

NFPA 1, Fire Code (2015) (only to the extent cited in subsection (c)(11)).

- cb) Modifications to the Life Safety Code

- 1) High Rise Buildings
All existing high rise buildings, as defined in NFPA 101, Life Safety Code (all applicable Sections), shall comply with the sprinkler requirements

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

prescribed in the 2000 edition of NFPA 101, Life Safety Code, effective January 1, 2002. Use of a Fire Safety Evaluation System (FSES) for compliance with this Section must adhere to NFPA 101A, Guide on Alternative Approaches to Life Safety (2001).

- 2) Assembly Occupancies
All existing assembly occupancies, as defined in NFPA 101 (Chapter 13), shall comply with the sprinkler requirements prescribed in the 2000 edition of NFPA 101, Life Safety Code, effective January 1, 2002.
- 3) Day Care Occupancies
 - A) Child Care Facilities (see the Child Care Act of 1969 [225 ILCS 101])
 - i) For purposes of determining the occupancy subclassification of a day care facility, the current version of the following Department of Children and Family Services rules will be applied: 89 Ill. Adm. Code 406, 407 and 408. This is applicable to licensed and nonlicensed facilities.
 - ii) Child-to-staff ratios in day care facilities shall comply with 89 Ill. Adm. Code 406, 407 and 408 and with the Child Care Act of 1969 [225 ILCS 10]. Any conflicting provisions of NFPA 101, Life Safety Code are inapplicable to day care facilities.
 - iii) In day care homes in which clients occupy a level below the level of exit discharge, means of escape shall be provided in accordance with either the applicable requirements of NFPA 101, Life Safety Code (2015) or with one of the following:
 - If a means of escape discharging directly to the outside at the basement level is not provided, requiring occupants to traverse another level of the home to exit, the path of escape through the level of exit discharge shall be separated from the remainder

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

of that level of the home by construction providing a minimum fire resistance rating of 1-hour; or

- The home shall be equipped with smoke alarms permanently powered by the building's electrical system and wired so that the actuation of one smoke alarm will actuate all the smoke alarms in the dwelling. At least one such smoke alarm shall be located on each level of the occupancy (excluding unoccupied attics and crawl spaces), and the path of escape through the level of exit discharge (from the basement door to the exterior door of the home) must be protected by automatic fire sprinklers. Listed residential sprinklers shall be used and the installation shall be made in accordance with 41 Ill. Adm. Code 109 and codes and standards referenced in that Part.

- iv) Size and Access to Secondary Means of Escape
If a window is used as a secondary means of escape and the size is not in accordance with NFPA 101, Life Safety Code (2015), the owner or operator of the day care home must demonstrate to an on-site representative of OSFM that all occupants (staff and clients) can escape through the window to the exterior of the home in 3 minutes or less.

- B) Windows for Rescue and Windows Used as a Secondary Means of Escape
Windows for rescue required by NFPA 101, Life Safety Code (2015), Section 17.2.11.1, are not required for existing day care centers. Where windows for rescue are required or where they are used as a secondary means of escape, the bottom sill of the window shall be not more than 44 inches above the floor as required by NFPA 101, Life Safety Code (2015), or a permanently fixed stair or ramp shall be installed at the window to allow occupants to be within 44 inches of the bottom window sill when standing atop the stair or ramp. The stair or ramp shall be at least the width of the window or a minimum of 36 inches in width, whichever is larger.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- C) Day Care Homes – New and Existing
Day care homes shall be defined as new and existing based on the date the original home construction was completed and available for residency.
- D) Smoke Detection in Corridors Outside Day Care Homes Located Within a Building of Another Occupancy
A smoke alarm system installed as prescribed in this subsection (c)(3)(D) shall be permitted to be used in day care homes located within a building of another occupancy in lieu of a smoke detection system connected to a fire alarm system as required by NFPA 101, Life Safety Code (2015), Sections 16.6.3.4.2 and 17.6.3.4.2:
- i) Smoke alarms connected to the building's electric shall be installed in accordance with proper coverage standards in the corridor serving the day care home.
 - ii) Smoke alarms connected to the building's electric shall be installed in accordance with proper coverage standards within the day care home (see NFPA 101, Life Safety Code (2015)), Section 16.6.3.4 for new day care homes and Section 17.6.3.4 for existing day care homes) as well as within 15 ft of all sleeping rooms. NFPA 101, Life Safety Code (2015), Section 17.6.3.4.4 shall not be permitted to be used.
 - iii) All smoke alarms regulated by subsections (c)(3)(D)(i) and (ii) will be arranged so that operation of any smoke alarm shall cause all smoke alarms within the corridor and the day care home to sound.
- 4) One- and Two-Family Dwellings
NFPA 101, Life Safety Code (2015), Chapter 24 (One- and Two-Family Dwellings) is adopted as recommended guidelines only, except when referenced as being required for compliance with this Part.
- 5) Communicating Spaces

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Corridors shall not be required to be separated from communicating spaces as required in NFPA 101, Life Safety Code (2015), Section 8.6.6, in new or existing occupancies, provided all of the following criteria are met:

- A) The arrangement complies with all other requirements of Section 8.6.6(4), including, if applicable, 8.6.6(4)(b);
 - B) The building is protected throughout by an approved automatic sprinkler system; and
 - C) Two means of egress are provided to occupants of the building on each floor that is served by the communicating opening that do not require the use of the stairway located within the communicating space.
- 6) Mixed Occupancies
All existing mixed occupancies, as defined by NFPA 101, Life Safety Code, shall, at minimum, continue to comply with the requirements of Section 6.1.14 of NFPA 101, Life Safety Code (2000), effective January 1, 2002, but shall also be permitted to comply with the requirements of Section 6.1.14 of NFPA 101, Life Safety Code (2015).
- 7) Determination of "Story" in Occupancies
The criteria for what a "story level" is, as found in NFPA 101, Life Safety Code (2015), Section 16.1.1.8 and 17.1.1.8 are permitted to be used for all occupancies found in NFPA 101, Life Safety Code (2015).
- 8) Use of NFPA 101A for Apartment Building Occupancies
NFPA 101A, Guide on Alternative Approaches to Life Safety (2016), Sections 7.6 and 7.7, may be used to demonstrate equivalent protection in apartment buildings, regardless of whether they contain board and care occupancies or house board and care clients receiving personal care services.
- 9) Means of Egress Design to Travel to Direct Exits and Travel to Windows for Rescue in Educational Occupancies and Day Care Centers
Travel to exits or to windows for rescue shall be permitted as follows in educational occupancies and day care centers:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- A) Travel directly from one room through adjoining rooms to reach an exit without entering a corridor may be permitted as long as the travel distance does not exceed 150 ft and doors located between the rooms are not locked or obstructed and other requirements found in NFPA 101, Life Safety Code (2015) are met.
 - B) Travel directly from one room through adjoining rooms without entering a corridor to reach a window for rescue may be permitted as long as the travel distance does not exceed 75 ft and doors located between the rooms are not locked or obstructed and other requirements found in NFPA 101, Life Safety Code (2015) are met.
 - C) Travel may be considered to be within a single room if two or more rooms are connected using openings that are at least 60 inches in clear width without any doors.
- 10) Door Locking to Prevent Unwanted Entry
Occupancies shall be permitted to provide locking to prevent unwanted entry as long as all of the following requirements are met:
- A) The locking means is approved and complies with NFPA 101, Life Safety Code (2015);
 - B) The locking means can be engaged without opening the door;
 - C) The unlocking and unlatching from the occupied side of the door can be accomplished without the use of a key or tool;
 - D) For existing occupancies only, the unlocking and unlatching requires not more than two releasing operations. For new occupancies, unlocking and unlatching requires no more than one releasing operation;
 - E) The unlocking and unlatching means are mounted at a height not exceeding 48 inches above the finished floor;

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- F) Locks, if remotely engaged, can be unlocked from the occupied side;
- G) The door is capable of being unlocked and opened from outside the room by staff with the necessary key or other credential;
- H) The locking means does not modify the door closer, panic hardware, or fire exit hardware;
- D) Modifications to fire door assemblies, including door hardware, shall be in accordance with NFPA 80, Standard for Fire Doors and Other Opening Protectives (2013);
- J) The emergency response plan addresses the use of the locking and unlocking means from within and outside the room;
- K) Staff is drilled in the engagement and release of the locking means, from within and outside the room, as part of the emergency response plan; and
- L) If doors are replaced, the new door shall comply with unlocking and unlatching that does not require more than one releasing operation.
- 11) Use of Natural Cut Christmas Trees in Buildings
Christmas tree placement within buildings shall comply with NFPA 1, Fire Code (2015), Section 10.13.1.1.
- d) The materials incorporated by this Section are on file with OSFM at the following locations:
- 1035 Stevenson Drive
Springfield IL 62703-4259
- James R. Thompson Center
100 W. Randolph Street, Ste. 4-600
Chicago IL 60601

Child Care Facilities

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- A) ~~Day Care Centers. Those facilities regulated under Chapters 16 and 17 (Day Care Centers) of the Life Safety Code shall include only:~~
- i) ~~any facility licensed as a Day Care Center by the Department of Children and Family Services;~~
 - ii) ~~any unlicensed facility that regularly provides day care for less than 24 hours per day for more than 8 children in a family home, or more than 3 children in a facility other than a family home;~~
 - iii) ~~part-day child care facilities, as defined in the Child Care Act of 1969.~~
- B) ~~Day Care Homes. Those facilities regulated under Chapters 16 and 17 (Family Day Care Homes) of the Life Safety Code shall include only:~~
- i) ~~any facility licensed as a day care home by the Department of Children and Family Services;~~
 - ii) ~~any unlicensed facility that is a family home that receives more than 3 up to a maximum of 12 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12. This subsection (b)(1)(B) does not affect facilities that receive only children from a single household.~~
- C) ~~Group Day Care Homes. Those facilities regulated under Chapters 16 and 17 (Group Day Care Homes) of the Life Safety Code shall include only:~~
- i) ~~any facility licensed as a group day care home by the Department of Children and Family Services; or~~
 - ii) ~~any unlicensed facility that is a family home that receives~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

~~more than 3 up to a maximum of 16 children for less than 24 hours per day. The number counted includes the family's natural or adopted children and all other persons under the age of 12.~~

~~D) For purpose of determining the classification of a child care facility, current Department of Children and Family Services guidelines will be applied.~~

2) ~~Child to Staff Ratios~~

~~Child to Staff ratios in day care facilities shall comply with 89 Ill. Adm. Code 406 and 407 and with the Child Care Act of 1969. Any conflicting provisions of the Life Safety Code are inapplicable.~~

3) ~~One and Two Family Dwellings~~

~~Chapter 24 (One and Two Family Dwellings) is adopted as recommended guidelines only.~~

4) ~~When clients occupy a level below the level of exit discharge in a day care home or group day care home occupancy, exiting shall be provided in accordance with the requirements of the applicable edition of the Life Safety Code, or with the following:~~

A) ~~Primary Means of Egress~~

~~i) If an exit discharging directly to the outside at the basement level is not provided, and therefore occupants must traverse another level of the home to exit, the path of egress through the level of exit discharge shall be separated from the remainder of that level of the home by construction providing a minimum fire resistance rating of 1 hour, or~~

~~ii) The home shall be equipped with smoke detectors permanently powered by the building's electrical system and wired so that the actuation of one detector will actuate all the detectors in the dwelling. At least one such smoke detector shall be located on each level of the occupancy (excluding unoccupied attics), and the path of egress through the level of exit discharge (from the basement door~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

~~to the exterior door of the home) must be protected by automatic fire sprinklers. Listed residential sprinklers shall be used and the installation shall be made in accordance with National Fire Protection Association Standard #13D, Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes — 1994 edition.~~

B) ~~Secondary Means of Egress~~

~~If a window is used where the size is not in accordance with the applicable edition of the Life Safety Code, the owner or operator of the day care or group day care home must demonstrate to an on-site representative of the Office of the State Fire Marshal that all occupants (staff and clients) can escape through the window to the exterior of the home in 3 minutes or less. The bottom sill of any window used as a secondary means of escape shall be within 44 inches of the floor as required by the Life Safety Code, or a permanently fixed stair or ramp shall be installed at the window to allow occupants to be within 44 inches of the bottom window sill when standing atop the stair or ramp.~~

5) ~~Permanently Moored Vessels~~

A) ~~Occupancies located on permanently moored floating vessels are subject to compliance with the applicable occupancy chapter of the Life Safety Code (2000 edition), the fire safety standards contained in National Fire Protection Association Standard 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers and Wharves (1995 edition) and the criteria listed in this Section.~~

B) ~~A stability test shall be conducted by the licensee in accordance with 46 CFR, Subchapter S, Part 170, Subpart F. In lieu of a stability test, the licensee may elect to perform a Deadweight Survey to determine the Lightweight Displacement and Longitudinal Center of Gravity. The Vertical Center of Gravity shall be determined by a conservative estimate, subject to approval by a marine authority acceptable to the Office of the State Fire Marshal.~~

C) ~~The intact stability characteristics for each vessel must comply~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

with the following criteria:

- i) ~~46 CFR, Subchapter S, Part 170, Subpart E, Sections 170.160, 170.170, and 170.173.~~
 - ii) ~~In lieu of compliance with Section 170.173, the licensee may elect to comply with alternate criteria for Vessels of Unusual Proportion and Form, as may be acceptable to the United States Coast Guard at that time, for certified passenger vessels.~~
 - iii) ~~46 CFR, Subchapter S, Part 171, Subpart E, Section 171.050.~~
- D) ~~All permanently moored vessels shall be required to comply with a one-compartment standard of flooding, as outlined in 46 CFR 171.070, regardless of the passenger capacity of the vessel.~~
- E) ~~All permanently moored vessels shall be required to comply with Damage Stability Standards of 46 CFR, Subchapter S, Part 171, Subpart C, Section 171.080.~~
- F) ~~Additionally, all vessels must comply with requirements for Stability After Damage (Damage Righting Energy Criteria) as may be acceptable to the United States Coast Guard at that time for certified passenger vessels.~~
- G) ~~Additionally, an annual survey shall be conducted of permanently moored vessels to determine if structural changes exist which may affect the stability of the vessel. The survey shall consist of the following:~~
- i) ~~General inspection of the superstructure and layout of outfitting to ensure there are no changes to the approved arrangement that may affect the stability of the vessel;~~
 - ii) ~~Inspection of the underdock spaces to ensure watertight integrity of the vessel is maintained;~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- iii) ~~Inspection and report on the condition of the hull and watertight bulkheads;~~
- iv) ~~Inspection and report on the condition of water tight doors and water tight bulkhead penetration; and~~
- v) ~~Inspection and report on the condition of ventilator, hatch covers, and manhole covers.~~

~~This annual survey does not apply to United States Coast Guard Certified Vessels that are subject to their regulatory inspections.~~

H) ~~Inspection and Examination of Permanently Moored Vessels~~

- i) ~~Permanently moored vessels shall undergo drydock and internal structural examinations at intervals in accordance with 46 CFR 71.50-3 or present evidence of compliance with alternative methods of hull examination as may be deemed acceptable at the time, by the United States Coast Guard, for vessels that operate in fresh water.~~
- ii) ~~Inspection of permanently moored vessels having steel or aluminum hulls may be performed in dry dock or in the water. In the water inspections shall consist of an internal structural examination and a detailed non-destructive examination of the vessel's hull. The non-destructive hull examination may be performed by underwater inspection methods or from inside the vessel if all compartments are safely accessible. ("Safely accessible" shall be dependent upon the issuance of a "gas free certificate" by a certified marine chemist.)~~
- iii) ~~All structural and in the water examinations and inspections of permanently moored vessels shall be under the direction of a registered professional engineer. Expertise of the engineer, or engineering team, shall include non-destructive testing methods and procedures, materials engineering and naval architecture, material engineering knowledge of both general and specific~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

~~corrosion types associated with welds and oxygen differential cells, as well as the effects of such types of corrosion on hull longevity.~~

- ~~iv) The inspection techniques must be under the general direction of an American Society for Nondestructive Testing (ASNT) Level III Non-destructive Certified Technician. Inspections and measurements must be performed by an ASNT Level II (or higher) Non-destructive Certified Technician.~~
- ~~v) The inspection results must be maintained in a format that will allow for examination by the Office of the State Fire Marshal's representatives, including comparison of results from the previous inspections.~~
- ~~vi) Repairs using underwater welding shall be subject to periodic reevaluation at subsequent inspections. Such repairs shall be completed in accordance with the standards found in the American Welding Society's "Specifications for Underwater Welding".~~
- ~~vii) The Office of the State Fire Marshal may require immediate dry docking of the vessel if structural examinations and underwater inspections or repair work are not conducted in accordance with this Section.~~
- ~~viii) All work shall be governed by and construed according to Illinois law effective on the execution date.~~
- ~~I) Written documentation of compliance with the requirements of subsections (b)(5)(B) through (H) shall be furnished to the Office of the State Fire Marshal by the owner of the permanently moored vessel. Such documentation shall be certified by a marine authority approved by the Office of the State Fire Marshal.~~
- ~~J) Permanently moored vessels, when occupied as public assembly occupancies in accordance with definitions given in the Life Safety Code, shall:~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- i) ~~Be equipped with an on-board electrical generator, sized and installed so as to be capable of supplying emergency back-up power to any required fire alarm systems, fire suppression equipment, emergency lighting circuits, communication equipment, bilge pumps, or vessel propulsion equipment;~~
- ii) ~~At all times occupied by more than 50 occupants, be staffed by personnel trained to initiate shipboard/vessel firefighting and evacuation duties;~~
- iii) ~~In the event of an emergency that causes the vessel to be set adrift, be either capable of self-propulsion or be serviced by a tugboat or tender capable of controlling the vessel; and~~
- iv) ~~have fire alarm systems interconnected with fire alarm systems of adjacent occupancies if any of the required paths of egress from the adjacent occupancy traverse the permanently moored vessel or if the paths of egress from the permanently moored vessel traverse the adjacent occupancy. The activation of either fire alarm system shall cause the other occupancy's fire alarm system to activate.~~

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 100.8 Historic Structures

Owners, operators or other responsible parties of a historic structure, as defined in NFPA 914, Code for Fire Protection of Historic Structures (2010), may elect to comply with NFPA 914 (2010).

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 100.9 More Recent Editions of the Code

Use of a newer edition of NFPA 101, Life Safety Code in its entirety will be considered equivalent to use of NFPA 101, Life Safety Code (2015) and may be considered by OSFM to be equal to or higher than this Part, as required by Section 100.3(g)(3).

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 100.10 Appeal of an Administrative Action

- a) Any person aggrieved by a decision or order of OSFM may, as a matter of right, appeal that action.
- b) Appeals from a decision or order of OSFM shall be instituted by filing a written request for a hearing, in the format required by 41 Ill. Adm. Code 210, no later than 10 days following receipt of the decision or order of OSFM. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.
- c) All appeal requests under this Part shall be mailed to:

Office of the State Fire Marshal
Division of Fire Prevention
1035 Stevenson Drive
Springfield IL 62703

(Source: Added at 43 Ill. Reg. _____, effective _____)

Section 100.11 Severability

If any provision or Section of this Part shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions and Sections shall not in any way be affected or impaired.

(Source: Added at 43 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Permanently Moored Craft Fire Prevention and Safety
- 2) Code Citation: 41 Ill. Adm. Code 149
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
149.10	New Section
149.20	New Section
149.30	New Section
149.40	New Section
149.50	New Section
149.60	New Section
149.70	New Section
149.80	New Section
149.90	New Section
149.100	New Section
149.110	New Section
149.120	New Section
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25/9]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking creates a new Part to address safety for permanently moored craft (PMCs), formerly referred to in OSFM rules as permanently moored vessels (PMVs). The rules were formerly contained within 41 Ill. Adm. Code 100.7(b)(5). The rulemaking also updates referenced standards that were identified in previous rules.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- 11) Statement of Statewide Policy Objective: These rules establish the minimum life safety standards for permanently moored craft.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

Cathy Stashak
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2425
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: This Part is applicable to all new and existing occupiable permanently moored craft in the State.
 - B) Reporting, bookkeeping or other procedures required for compliance: The rules require owners of permanently moored craft to maintain documentation verifying their compliance with specific sections of the rule and, upon request from OSFM, submit such compliance documentation.
 - C) Types of Professional skills necessary for compliance: Illinois-licensed engineer or Illinois-licensed architect.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

The full Text of the Proposed Rules begins on the next page:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 149

PERMANENTLY MOORED CRAFT FIRE PREVENTION AND SAFETY

Section	
149.10	Introduction
149.20	Definitions
149.30	Jurisdiction, Powers, Penalties, and Right of Entry
149.40	Adoption and Incorporation of Nationally-Recognized Standards
149.50	Applicability to New and Existing Permanently Moored Craft
149.60	Requirements
149.70	Inspections and Examinations
149.80	Qualifications for Third-Party Examiners
149.90	Permanently Moored Craft Used as Assembly Occupancies
149.100	Responsibility of Owners
149.110	Appeal of an Administrative Action
149.120	Severability

AUTHORITY: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25].

SOURCE: Adopted at 43 Ill. Reg. _____, effective _____.

Section 149.10 Introduction

Pursuant to authority conferred upon the Office of the State Fire Marshal (OSFM) by Section 9 of the Fire Investigation Act [425 ILCS 25/9], this Part governs the investigation and prevention of fire and dangerous conditions in, on and near permanently moored craft located within the State of Illinois.

Section 149.20 Definitions

"Act" means the Fire Investigation Act [425 ILCS 25].

"Assembly Occupancy" means an occupancy used:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation or similar uses; or

as a special amusement building, regardless of occupant load.

"Authority Having Jurisdiction" or "AHJ" means OSFM and local government authorities.

"Fire Safety Evaluation System" means a fire risk indexing approach to determining equivalencies to NFPA 101 for certain occupancies.

"Local Government Authorities" means those organizations that are the political governing unit of a county, district or municipality that enforce laws, regulations or ordinances within their specific geographical area.

"NFPA" means the National Fire Protection Association.

"OSFM" means the Office of the State Fire Marshal.

"Permanently Moored Craft" or "PMC" (formerly referred to in OSFM rules as permanently moored vessel or PMV) means any ship, barge or other craft permanently fixed to a foundation or mooring that, by virtue of its design and mooring arrangement, lacks the practical capability of being used as transportation on the water. By definition, as a matter of federal law (1 USC 3), these craft are not vessels for purposes of admiralty jurisdiction and are, thus, not directly subject to Coast Guard regulation or inspection. (See: *Stewart v. Dutra Construction Co.*; 543 U.S. 481, 494 (2005); U.S. Department of Homeland Security, Coast Guard, Notice of Policy on Craft Routinely Operated Dockside; 74 Fed. Reg. 21814 (May 11, 2009).)

"State Fire Marshal" means the Illinois State Fire Marshal and his or her deputies, inspectors or designees.

"Third-Party Examiner" means an independent third-party individual who meets the qualifications set forth in Section 149.80 and 46 CFR 71.50-1.

Section 149.30 Jurisdiction, Powers, Penalties, and Right of Entry

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- a) Jurisdiction
 - 1) This Part applies to localities and PMCs located within the State of Illinois, pursuant to State and federal law.
 - 2) *All local officers charged with the duty of investigating fires shall enforce this Part, under the direction of OSFM, except in those localities that have adopted fire prevention and safety standards equal to or higher than the standards in this Part [425 ILCS 25/9].*
- b) Powers
 - 1) OSFM is authorized and directed to enforce this Part.
 - 2) OSFM may make, or cause to be made, inspections of PMCs based upon:
 - A) OSFM's own initiative;
 - B) Requests from agencies of the State and local government;
 - C) Complaints from the public;
 - D) Known or observed violations;
 - E) Known or observed potential for loss of lives or damage to property from fire;
 - F) Prevention of fire; or
 - G) Ensuring the safety of life during any emergency requiring evacuation.
 - 3) Under the direction of OSFM, the chief of the local fire department is empowered and directed to make inspections in the geographical area of that chief's responsibility.
 - 4) The inspections will be conducted in accordance with this Part, subject to available resources.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- 5) When any inspection discloses a violation of this Part, OSFM or the local fire chief shall notify the owner, occupant or other interested party, as provided in Section 9 of the Act, to correct the violation. Violations shall be corrected within the time limit stated by OSFM or the local fire chief.
- c) Penalties
The penalties for violation of this Part shall be those stated in the Act.
- d) Right of Entry
OSFM, and the officers of cities, villages, towns and fire protection districts charged with the duty of investigating fire by the Act, shall, under the direction of OSFM, inspect and examine, at reasonable hours, any PMC located within the State of Illinois to determine whether there are any violations of this Part or the local ordinances for the protection of life and property from fire or other emergency. Local officials having jurisdiction are empowered and directed to invoke any provisions of this Part to enforce correction of any condition hazardous to life and property from fire or other emergency.

Section 149.40 Adoption and Incorporation of Nationally-Recognized Standards

- a) OSFM incorporates by reference the following nationally-recognized standards:
 - 1) National Fire Protection Association
1 Batterymarch Park
Quincy MA 02169-7471

NFPA 101: Life Safety Code (Edition currently incorporated by OSFM at 41 Ill. Adm. Code 100)

NFPA 101A: Guide on Alternative Approaches to Life Safety
(Edition currently incorporated by OSFM at 41 Ill. Adm. Code 100)

NFPA 307: Standard for the Construction and Fire Protection of Marine Terminals, Piers and Wharves (2016)
 - 2) American Welding Society
8669 Doral Boulevard, Suite 130
Doral, Florida 33166

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

D3.6M: Underwater Welding Code (2017)

- b) OSFM hereby incorporates by reference the following United States Coast Guard regulations and related notices:

46 CFR 71.50: Drydocking

46 CFR 170: Stability Requirements for All Inspected Vessels

46 CFR 171: Special Rules Pertaining to Vessels Carrying Passengers

74 Fed. Reg. 21814: Notice of Policy on Craft Routinely Operated
Dockside

- c) The materials incorporated by reference in this Section are incorporated as of the date specified, for the limited purposes explicitly cited elsewhere in this Part, and include no later amendments or editions. The federal regulations incorporated by reference in subsection (b) apply notwithstanding the Coast Guard's lack of direct regulatory and inspection authority over PMCs. These materials are on file with OSFM at the following locations:

1035 Stevenson Drive
Springfield IL 62703-4259

100 W. Randolph Street, Suite 4-600
Chicago IL 60601

Section 149.50 Applicability to New and Existing Permanently Moored Craft

All PMCs located within the State of Illinois shall be required to comply with this Part. This Part shall apply to both new and existing PMCs, except as otherwise provided by statute or modifications within this Part.

Section 149.60 Requirements

- a) PMCs shall comply with the requirements of NFPA 101 and NFPA 307.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- b) The intact and damage stability characteristics for each PMC shall comply with the applicable provisions of:
 - 1) 46 CFR 170; and
 - 2) 46 CFR 171, except that all PMCs shall only be required to comply with a one-compartment standard of flooding, as outlined in that regulation, regardless of the passenger capacity of the PMC.
- c) If a PMC does not meet the prescriptive code requirements of NFPA 101, the owner may elect to prove that equivalent or higher safety is being achieved through a fire safety evaluation system using NFPA 101A, if an evaluation is available for that occupancy.

Section 149.70 Inspections and Examinations

The following inspections and examinations shall be performed in accordance with the applicable code or standard by a third-party examiner who meets the requirements of Section 149.80:

- a) An annual inspection shall be conducted of PMCs to determine if structural changes exist that may affect the stability of the PMC. The inspection shall consist of the following:
 - 1) General inspection of the superstructure and layout of outfitting to ensure there are no changes to the approved arrangement that may affect the stability of the PMC;
 - 2) Inspection of the underdock spaces to ensure watertight integrity of the PMC is maintained;
 - 3) Inspection of the condition of the hull and watertight bulkheads;
 - 4) Inspection of the condition of watertight doors and watertight bulkhead penetration; and
 - 5) Inspection of the condition of ventilator, hatch covers and manhole covers.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

- b) PMCs shall undergo dry dock and internal structural examinations at intervals in accordance with 46 CFR 71 or present evidence of compliance with alternative methods of hull examination as prescribed in that regulation.
- c) All repair work shall comply with Illinois law effective on the completion date of the work.
- d) Written documentation of compliance with the requirements of this Section and Section 149.80 shall be maintained until the next inspection. A copy shall be furnished to OSFM by the owner of the PMC. The documentation shall be certified by a third-party examiner meeting the qualifications set forth in Section 149.80.
- e) Hull inspection results, including comparison of results from the subject PMC's previous inspections, must be maintained in a format that will allow for examination by OSFM representatives.
- f) Repairs using underwater welding shall be subject to periodic reevaluation at subsequent inspections. Repairs shall be completed in accordance with the American Welding Society's Underwater Welding Code, incorporated by reference in Section 149.40.

Section 149.80 Qualifications for Third-Party Examiners

Third-party examiners are individuals who meet the minimum requirements to adequately advise OSFM as to the conformance of a PMC with the conditions set forth in this Part.

- a) The required knowledge base and/or certifications for a third-party examiner to perform the inspections and examinations set forth in Section 149.70 are provided in 46 CFR 71.50-1.
- b) All third-party examiners must annually provide to OSFM evidence in writing of financial responsibility in the amount of \$1 million in general insurance, workers' compensation and longshoreman's insurance, hull and protection and indemnity insurance, and environmental insurance.

Section 149.90 Permanently Moored Craft Used as Assembly Occupancies

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

PMCs defined as assembly occupancies in accordance with NFPA 101 shall comply with all of the following:

- a) Be equipped with an on-board electrical generator, sized and installed to be capable of supplying emergency back-up power to any required fire alarm systems, fire suppression equipment, emergency lighting circuits, communication equipment, bilge pumps, or craft propulsion equipment (if the propulsion system is used for control should the PMC be set adrift);
- b) Be staffed by personnel trained to initiate shipboard/craft firefighting and evacuation duties;
- c) Provide a method of controlling the PMC in the event of an emergency that causes the PMC to be set adrift; and
- d) Have fire alarm systems interconnected with the fire alarm system of adjacent occupancies if any of the required paths of egress from the adjacent occupancy traverse the PMC or if the paths of egress from the system cause the other occupancy's fire alarm system to activate.

Section 149.100 Responsibility of Owners

It is the responsibility of the owner of a PMC to comply with this Part.

Section 149.110 Appeal of an Administrative Action

- a) Any person aggrieved by a decision or order of OSFM may, as a matter of right, appeal that action.
- b) Appeals from a decision or order of OSFM shall be instituted by filing a written request for a hearing, in the format required by 41 Ill. Adm. Code 210, no later than 10 days following receipt of the decision or order. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.
- c) All appeal requests pursuant to this Part shall be mailed to:

Office of the State Fire Marshal
Division of Fire Prevention
1035 Stevenson Drive

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED RULES

Springfield IL 62703

Section 149.120 Severability

If any provision or Section of this Part shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions and Sections shall not in any way be affected or impaired.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1540.350	Amendment
1540.380	Amendment
1540.395	New Section
- 4) Statutory Authority: 40 ILCS 5/14-135.03; 40 ILCS 5/14-147.5(g); 40 ILCS 5/14-147.6(e)
- 5) A Complete Description of the Subjects and Issues Involved: These rules are part of the State Employees' Retirement System's efforts to implement PA 100-587 as directed by statute.

PA 100-587 created a voluntary accelerated benefit payment option for Tier 1 members that retire prior to June 30, 2021. At retirement, Tier 1 members may elect to forfeit the Tier 1, 3% compounded automatic annual increase (AAI) and instead receive 1.5% non-compounded AAIs, beginning the January 1st following the 1st anniversary of retirement or the 67th birthdate, whichever is later. Members who elect to forego the Tier 1 AAIs will receive a lump sum payment equal to 70% of the difference in the present value of the Tier 1 AAI and the 1.5% non-compounded AAI. We refer to this option as the accelerated AAI benefit payment.

Additionally, this Act created a voluntary accelerated benefit payment option for inactive members that have accrued enough service credit to vest into the retirement plan. Such members can forfeit all service credit and rights to future retirement benefits in exchange for a lump sum payment equal to 60% of the present value of the earned benefit. We refer to this option as the accelerated total benefit payment.

The rules clarify that the accelerated benefit payment options are payment options provided under the SERS plan and that a member may utilize such options only if he or she declines other payment options that alter the straight-line benefit payment schedule. Said different, a member that elects any of the following payment options are not eligible to elect an accelerated pension benefit payment:

Level Income Option;

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

Social Security Offset Removal Option; or
Reversionary Annuity Option.

The rules provide that a member who retires from SERS utilizing the Retirement Systems Reciprocal Act during the eligibility period and began a proportional annuity from another reciprocal system prior to December 1, 2018 is not eligible for an accelerated benefit payment. Proportional annuities cannot be revoked once either benefit starts. In most cases, the effective date for proportional annuities are the same date. There are infrequent situations in which a member's proportional annuity begins in one system prior to the proportional annuity start date in the other system.

The rules provide that a member may not elect an accelerated benefit payment option if the receipt of such payment violates the required minimum distribution provisions of the Internal Revenue Code. Under the IRS code, a member that separates from service must begin receiving distributions from a qualified plan no later than the April 1st following the calendar year in which he or she attains age 70.5. Therefore, the rule would prohibit the payment of an accelerated benefit payment after the required distribution date.

The rules provide that a member must submit a valid application for an accelerated benefit payment no later than June 1, 2021.

The rules provide that a member indebted to the System due to a prior overpayment is ineligible for the accelerated total benefit payment until the debt is repaid in full.

The rules provide that if a member seeking to elect an accelerated benefit payment is subject to a QILDRO and the benefits payable to an alternate payee would be impacted by the accelerated benefit payment election, then a supplemental order must be accepted by the System before that election can be completed. Additionally, all benefit payments payable to the member and the alternate payee will be held until the System receives such supplemental order clarifying how the accelerated benefit payment is to be divided.

The rules apply the mistake in benefit payment provisions to accelerated benefit payments. The rules clarify that if the member that received an accelerated benefit payment was underpaid, then the member shall be made whole with a distribution from the State Pension Obligation Acceleration Bond Fund. If a member that received an accelerated benefit payment was overpaid, then amounts collected by the System shall be transmitted to the State Pension Obligation Acceleration Bond Fund.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

The rules provide that accelerated benefit payments shall be funded solely from the State Pension Obligation Acceleration Bond Fund. Furthermore, if that fund does not have the money necessary to pay such benefits, then all elections to receive accelerated benefit payments that will not be paid shall be null and void.

The rules clarify that the decision to accept an accelerated AAI benefit payment becomes irrevocable on either the date in which the member cashes or deposits the first retirement annuity payment or the date in which the accelerated pension benefit payment is vouchered, whichever occurs earlier.

The rules clarify that an election for an accelerated total pension benefit payment becomes irrevocable on the date such payment is vouchered.

The rules clarify that the effective date of an accelerated AAI benefit payment shall not be before December 1, 2018 and shall not be after June 1, 2021. Furthermore, the effective date of the accelerated AAI benefit payment may not precede the effective date of the retirement annuity.

The rules clarify that the effective date of an accelerated total benefit payment shall not be before April 1, 2019 and shall not be after June 1, 2021. Furthermore, the effective date of the accelerated total benefit payment may not be before the 1st of the month following the date the System receives the member's application for such payment option.

Clarify that only service credit established under SERS may be used for the purposes of determining eligibility for the accelerated total benefit payment. Furthermore, only earnings credit established under SERS may be used for the purposes of determining the calculation of the accelerated total benefit payment.

- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

Section: 1540.190 Proposed Action: Amendment Illinois Register Citation: 42 Ill. Reg. 16646; September 14, 2018

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:
- Jeff Houch
State Retirement Systems
2101 South Veterans Parkway
PO Box 19255
Springfield IL 62794-9255
- 217/524-8105
fax: 217/557-3943
jeff.houch@srs.illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the System when the most recent regulatory agendas were published.

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

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540

THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section

1540.5	Introduction (Repealed)
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.195	Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1540.255 Pick-up Option for Optional Service Contributions
- 1540.260 Contributions and Service Credit During Nonwork Periods
- 1540.270 Written Appeals and Hearings
- 1540.280 Availability for Public Inspection (Recodified)
- 1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
- 1540.300 Organization of the State Employees' Retirement System (Recodified)
- 1540.310 Amendments
- 1540.320 Optional Forms of Benefits – Basis of Computation
- 1540.330 Board Elections
- 1540.340 Excess Benefit Arrangement
- 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
- 1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
- 1540.370 Americans With Disabilities Act
- 1540.380 Correction of Mistakes in Benefit Payments
- 1540.385 Suspension of Benefits from Uncashed Warrants
- 1540.390 Freedom of Information Act
- [1540.395 Accelerated Pension Benefit Payment Program](#)

1540.APPENDIX A Grievance Form

1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014; emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency amendment modified in response to Joint Committee on Administrative Rules Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. _____, effective _____.

Section 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)

- a) Definitions
 - 1) The definitions in Section 1-119(a) of the Illinois Pension Code (the Act) [40 ILCS 5/1-119(a)(2)] shall apply to this Section.
 - 2) The phrase "death benefit" in Section 1-119(a)(2) of the Act [40 ILCS 5/1-119(a)(2)] includes a lump sum payment described in Sections 14-116, 14-117 and 14-128 of the Act.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 3) The phrase "member's refund" in Section 1-119(a)(5) of the Act [40 ILCS 5/1-119(a)(5)] does not include an error refund as defined in subsection (a)(4) of this Section.
- 4) The phrase "error refund" as used in this Section includes:
 - A) a refund paid to a member as the result of an error in a payment to the System;
 - B) an interest rebate; or
 - C) a refund paid to a member as the result of the member's failing to complete the required contributions necessary to purchase or reinstate service credit.
- 5) The phrase "disability benefit" in Section 1-119(a)(3) of the Act [40 ILCS 5/1-119(a)(3)] includes:
 - A) an occupational disability benefit under Section 14-123 of the Act [40 ILCS 5/14-123];
 - B) a temporary disability benefit under Section 14-123.1 of the Act [40 ILCS 5/14-123.1]; or
 - C) a nonoccupational disability benefit under Section 14-124 of the Act [40 ILCS 5/14-124].
- 6) The phrase "member's retirement benefit" as used in this Section means the total amount of the retirement benefit as defined in Section 1-119(a)(8) of the Act [40 ILCS 5/1-119(a)(8)] that would be payable to the member in the absence of a QILDRO.
- 7) The phrase "partial member's refund" as used in this Section includes:
 - A) a refund of widow/survivor benefit contributions;
 - B) a refund of alternative formula contributions as a result of the member not completing sufficient service to qualify for the alternative formula retirement benefit; or

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- C) a refund of early retirement contributions.
- 8) The phrase "permissive service" in Section 1-119(a)(5.5) of the Act includes credit purchased by the member for military service, leaves of absence, early retirement incentives, contractual service, federal or out-of-state service, visually handicapped service, legislative staff intern service and unused sick and vacation time.
- 9) The phrase "regular service" in Section 1-119(a)(7.5) of the Act includes service for which compensation was paid on a State payroll and purchased by the member for a qualifying period, short periods of employment, full or partial refund, emergency or temporary employment, and service credit where the member previously opted not to participate in the System and subsequently opted to purchase the service credit for the participation.
- 10) "Accelerated Retirement Benefit" means "accelerated pension benefit payment" under Sections 14-147.5 and 14-147.6 of the Illinois Pension Code [40 ILCS 5].
- b) Requirements for a Valid Qualified Illinois Domestic Relations Order
The System will accept a court order as a valid Qualified Illinois Domestic Relations Order, or QILDRO, that meets all of the following requirements:
- 1) The order must be accompanied by a \$50 non-refundable processing fee, by check payable to the State Employees' Retirement System.
 - 2) If the order applies to a person who became a member of the System before July 1, 1999, the order must be accompanied by the original Consent to Issuance of QILDRO signed by the member.
 - 3) The order must be a certified copy of an original order dated on or after July 1, 1999.
 - 4) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 5) The order must contain the name, residence address, and Social Security number of the member.
 - 6) The order must contain the name, residence address, and Social Security number of the alternate payee.
 - 7) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.
 - 8) The order must express any amount to be paid to the alternate payee from a member's retirement benefit as a dollar amount per month or as a percentage per month.
 - 9) The order must express any amount to be paid to the alternate payee from a member's refund or partial refund as a dollar amount or as a percentage of the refund.
 - 10) The order must express any amount to be paid to the alternate payee from a member's death benefit as a dollar amount or as a percentage of the death benefit.
 - 11) The order must apply only to benefits that are statutorily subject to QILDROs as provided in Section 1-119(b)(1) of the Act [40 ILCS 5/1-119(b)(1)].
 - 12) The order and, if applicable, the Consent to Issuance of QILDRO must be in the form adopted by the System.
 - 13) No language may be added to, or omitted from, the QILDRO form or the consent form adopted by the System.
- c) Requirement for a Valid QILDRO Calculation Order
The System will accept a court order as a valid QILDRO Calculation Order or as a QILDRO Calculation Order that meets all of the following requirements:
- 1) The order must be accompanied by a \$50 non-refundable processing fee, with the check made payable to the State Employees' Retirement System.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 2) The order must be a certified copy of an original order dated on or after July 1, 2006.
 - 3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.
 - 4) The order must contain the name, residence address, and Social Security number of the member.
 - 5) The order must contain the name, residence address, and Social Security number of the alternate payee.
 - 6) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.
 - 7) The order must apply only to benefits that are statutorily subject to QILDRO Calculation Orders as provided in Section 1-119(b)(1) of the Act.
 - 8) The order must be in the form directed by Section 1-119 of the Act.
 - 9) No language may be added to, or omitted from, the QILDRO Calculation Order form adopted by the System.
 - 10) The QILDRO Calculation Order must not be completed in a manner that changes the intent of the QILDRO to which it relates.
- d) Required Form
- 1) A QILDRO/QILDRO Calculation Order must be in the form directed by Section 1-119 of the Act. The required QILDRO/QILDRO Calculation Order form is available from the System upon request or in PDF at www.state.il.us/srs.
 - 2) A QILDRO/QILDRO Calculation Order that is not in the form adopted by the System is invalid.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 3) A Consent to Issuance of QILDRO must be in the form adopted by the System as of the date that the QILDRO is received. The required consent form is available from the System upon request or in PDF at www.state.il.us/srs.
 - 4) A consent form that is not in the form adopted by the System is invalid.
- e) Filing a QILDRO with the System
- 1) A QILDRO should be sent to the System's Springfield Office, accompanied by the consent form, if applicable, and a \$50 non-refundable processing fee.
 - 2) A QILDRO will be deemed received by the System on the date that it is received in the System's Springfield Office.
 - 3) Within 45 calendar days after receipt of a QILDRO, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO. If the System determines that the order is not a valid QILDRO, the notice will specify the reason or reasons.
 - 4) A QILDRO that has been modified by the issuing court should be submitted in the same manner as the original QILDRO. A separate \$50 non-refundable processing fee is required for each modified QILDRO.
- f) Filing a QILDRO Calculation Order with the System
- 1) A QILDRO Calculation Order should be sent to the System's Springfield Office, accompanied by a \$50 non-refundable processing fee.
 - 2) A QILDRO Calculation Order will be deemed received by the System on the date that it is received in the System's Springfield Office.
 - 3) Within 45 calendar days after receipt of a QILDRO Calculation Order, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO Calculation Order. If the System determines that

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

the order is not a valid QILDRO Calculation Order, the notice will specify the reason or reasons.

- 4) A QILDRO Calculation Order that has been modified by the issuing court should be submitted in the same manner as the original QILDRO Calculation Order. A separate \$50 non-refundable processing fee is required for each modified QILDRO Calculation Order. A modified QILDRO Calculation Order will not affect the priority of the QILDROs on file.
- g) Benefits Affected by a QILDRO
- 1) A QILDRO may apply only to the following benefits administered by the System:
 - A) a monthly retirement benefit;
 - B) a member's termination refund;
 - C) a member's partial refund; ~~and~~
 - D) a member's death benefit; ~~and~~
 - E) a member's accelerated retirement benefit.
 - 2) If a QILDRO specifies a dollar amount or percentage payable to an alternate payee from any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount or percentage specified in the QILDRO.
 - 3) A QILDRO shall not apply to any of the following:
 - A) a reversionary annuity that becomes payable following the death of the member;
 - B) a survivor benefit;
 - C) any disability benefit;

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- D) an error refund; and
 - E) any other benefit paid under Article 14 [40 ILCS 5/Art. 14] not specifically listed in subsection (g)(1) of this Section.
- 4) If the space provided on the QILDRO form for the dollar amount or percentage the alternate payee is to receive from the member's retirement benefit, member's refund, partial member's refund or death benefit is left blank, then the alternate payee will receive no portion of the benefit or refund for which the space is left blank.
- h) Effect of a Valid QILDRO
- 1) Retirement Benefit
 - A) After the System has determined that a QILDRO applying to a retirement benefit on a dollar basis is valid, one of the following will occur:
 - i) If the member has not yet started receiving benefits, the QILDRO will be placed in the member's file and will be implemented when the first affected benefit payment commences; or
 - ii) If the member is already receiving benefits subject to the QILDRO, payment to the alternate payee will begin with the first payment to the member occurring at least 30 days after the QILDRO is received.
 - B) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, that the member has not retired, and that a QILDRO Calculation Order will be needed, the following will occur:
 - i) Within 45 days, the System will provide the information required in Section 1-119(h)(1.5)(B) of the Act;

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- ii) When the member requests a retirement benefit, within 45 days after the System receives all information necessary to determine the actual benefit payable, the System will provide the information required in Section 1-119(h)(1.5)(C) of the Act; and
 - iii) When the member requests a retirement benefit and there is no QILDRO Calculation Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Order. Once the QILDRO Calculation Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Order is received.
- C) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, and that the member is receiving a retirement benefit, the following will occur:
- i) Within 45 days, the System will provide the information required in Section 1-119 (h)(1.5)(C) of the Act; and
 - ii) If there is no QILDRO Calculation Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

receipt of the QILDRO Calculation Order. Once the QILDRO Calculation Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Order is received.

- 2) Refund or Partial Refund
 - A) After the System has determined that a QILDRO applicable to a member's refund or partial member's refund is valid, one of the following will occur:
 - i) If the QILDRO provides that the refund or partial refund will be allocated on a dollar amount basis and the member has not applied for a refund or partial refund, the QILDRO will be placed in the member's file and will be implemented when payment of the affected refund or partial refund is made;
 - ii) If the QILDRO provides that the refund or partial refund will be allocated on a percentage basis and a QILDRO Calculation Order is not on file when the member requests a refund or partial refund, the System will provide the refund or partial refund amount to the member and alternate payee and will advise of the need for a QILDRO Calculation Order. The System will hold the refund or partial refund until the QILDRO Calculation Order is received;
 - iii) If a refund application is pending when the System receives a QILDRO that purports to apply to the refund but the refund payment has not yet been vouchered, the System will hold the portion of the refund that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

pending refund. It is the member's or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification; or

- iv) If a refund payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund, the QILDRO shall not be effective against that refund.
- B) "Vouchered", as used in subsection (h)(2)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.
- 3) Death Benefit
- A) After the System has determined that a QILDRO applicable to a member's death benefit is valid, one of the following will occur:
 - i) If the QILDRO provides that the death benefit will be allocated on a dollar amount basis and if the System has not received notice of the member's death, the QILDRO will be placed in the member's file and will be implemented when payment of the affected death benefit is made;
 - ii) If the QILDRO provides that the death benefit will be allocated on a percentage basis and a QILDRO Calculation Order is not on file when the System is notified of the death of the member, the System will provide the death benefit amount to the beneficiary on file and the alternate payee and will advise of the need for a QILDRO Calculation. The System will hold the death benefit until the QILDRO Calculation Order is received.
 - If a death benefit application is pending when the System receives a QILDRO that purports to apply to the death benefit but the death benefit payment has not yet been vouchered, the System will hold the portion of the death benefit that would be payable to the alternate payee until it receives

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

clarification from the court as to whether the QILDRO is effective against that pending death benefit. It is the beneficiary or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification;

- If a death benefit payment has already been vouchered when the System receives a QILDRO that purports to apply to the death benefit, the QILDRO shall not be effective against that death benefit;

B) "Vouchered", as used in subsection (h)(3)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

4) Accelerated Retirement Benefit

A) For cases in which a valid QILDRO filed with the System grants prospective automatic annual increases to benefits of an alternate payee and the member subject to that QILDRO elects the accelerated retirement benefit under Section 14-147.6 of the Illinois Pension Code, a supplemental order clarifying how the payment option is to be divided must be accepted before any of the retirement benefits payable to the member and alternative payee are vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.6, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain the supplemental order.

B) If a member subject to a valid QILDRO elects the accelerated retirement benefit under Section 14-147.5 of the Illinois Pension Code, a supplemental order clarifying how the accelerated retirement benefit is to be divided must be accepted by the System before any benefits payable to the member or the alternate payee may be vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

she applies for the accelerated retirement benefit under Section 14-147.5, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain the a supplemental order.

C) "Vouchered", as used in this subsection (h)(4), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

- i) Termination of QILDRO
The System will consider a QILDRO as having been terminated in any of the following situations:
- 1) Upon receipt of a certified copy of a court order terminating the QILDRO;
 - 2) Upon payment of all amounts provided for in the QILDRO; or
 - 3) When the person to whom the QILDRO applies ceases to be a member or annuitant of the System.
- j) QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1) A QILDRO that applies to a person who became a member of the System prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original is unavailable, a certified copy of the consent form filed with the court that issued the QILDRO is acceptable in lieu of the original.
 - 2) The Consent to Issuance of QILDRO must be in the form adopted by the System (including judicial district and county, case number and caption, member's name and SSN, alternate payee's name and SSN, member's signature and date) as of the date the QILDRO is received. A consent form that is not in the form adopted by the System is invalid.
 - 3) In accordance with Section 1-119(m)(1) of the Act [40 ILCS 5/1-119(m)(1)], a consent form must be signed by the member to whom the QILDRO applies. A consent form signed by a judge in lieu of the member is invalid.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- k) Alternate Payee's Address
- 1) An alternate payee is responsible to report to the System in writing each change in his or her name and residence address.
 - 2) When a member's retirement benefit, refund or death benefit subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit, refund or death benefit is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.
 - 3) The 180-day period during which the System will hold the retirement benefit, refund or death benefit as provided in Section 1-119(e)(2) of the Act [40 ILCS 5/1-119(e)(2)] begins on the date that the notice described in subsection (j)(2) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, refund or death benefit becomes payable, whichever is later.
- l) Electing Form of Payment
- 1) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)].
 - 2) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the Act.
 - 3) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Act.
- m) Automatic Annual Increases
- 1) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 14-114 or 14-115 of the Act [40 ILCS 5/14-114, 14-115], according to the designation in the QILDRO. If the QILDRO fails to

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

designate whether the alternate payee is intended to receive a proportionate share of the automatic annual increase, then the System will presume that the alternate payee is not entitled to a proportionate share of the automatic annual increase in the member's share.

- 2) The initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase due the member after the date the QILDRO first took effect.
 - 3) The System will calculate the amount of any increase payable to the alternate payee under the QILDRO.
 - 4) The amount of any increase payable to the alternate payee is the percentage of increase due the member under Sections 14-114 or 14-115 of the Act, multiplied by the alternate payee's monthly benefit as of the date of the increase.
- n) Providing Benefit Information for Divorce Purposes
- 1) Within 45 days after receiving a subpoena or request from a member, the System will provide the information required in Section 1-119(h)(1) of the Act.
 - 2) Information provided by the System for divorce purposes does not include the amount of a member's retirement benefit for which no information is yet on file with the System. The System will not provide a retirement benefit amount if the member is not vested. The System will not project earnings or future service. The System will not assume future eligibility for special formula employees or elections by members.
 - 3) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present value of a member's retirement benefit, refund, death benefits or other interests.
 - 4) Except as otherwise indicated by the System in a statement regarding a member's benefits, information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, and is not isolated as to the marital period only. The System will not provide benefit information for the marital period or

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

specific years.

- 5) The System does not calculate the amount of a member's retirement benefit, refund or death benefit that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.
- 6) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.
- 7) The System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties including the member's attorney, except in response to the member's written authorization to release such information, or in response to a subpoena.

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1540.380 Correction of Mistakes in Benefit Payments

- a) As soon as reasonably practicable after discovery that the amount of a benefit being paid to a recipient is incorrect, the System shall notify the recipient in writing. The written communication shall indicate the correct amount of the benefit, when the corrected benefit amount will begin to be paid, and the procedure for appealing this determination. For the purposes of this Section, benefit shall include an accelerated pension benefit payment.
- b) Upon discovering that the System has been paying a benefit that is not correct, the System shall endeavor to determine whether the recipient has been underpaid or overpaid by the System.
 - 1) If the recipient has been underpaid, the System shall pay a lump sum amount to the recipient in the amount necessary to make the recipient whole as to the amounts that should have been paid to the recipient by the System according to the terms of the Act. If the benefit underpaid to the recipient is an accelerated pension benefit payment, the System shall follow the provisions of this subsection (b). The amount payable to the recipient in accordance with this Section shall be distributed from the State Pension Obligation Acceleration Bond Fund.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 2) If the System determines the recipient has been paid more than provided for by the Act, the System shall determine when the overpayments began.
 - A) If the overpayments have been made by the System for more than three years, the recipient will not be required to reimburse the System for the amount of the overpayments unless the overpayments are the result of incorrect or inaccurate information provided by a member, beneficiary or his or her authorized representative.
 - B) If the overpayments have been made for less than three years, the System shall make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by:
 - i) reductions of the remaining payments due to the recipient, survivors and beneficiaries;
 - ii) repayment of the overpayment by the recipient to the System;
 - iii) such other arrangement as the System makes with the recipient; or
 - iv) any other means legally available to the System.
 - C) No matter how long an overpayment has been made to a member or beneficiary, if the overpayment is the result of incorrect or inaccurate information provided by a member, beneficiary or his or her authorized representative, the System shall make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by:
 - i) reductions of the remaining payments due to the recipient, survivors and beneficiaries;
 - ii) repayment of the overpayment by the recipient to the System;

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- iii) such other arrangement as the System makes with the recipient; or
- iv) any other means legally available to the System.

D) If the benefit overpaid to the recipient is an accelerated pension benefit payment, the System shall follow the provisions of this Section. Amounts collected in accordance with this subsection (b) shall be remitted to the State Pension Obligation Acceleration Bond Fund.

c) Definitions

"Accelerated Pension Benefit Payment" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Illinois Pension Code.

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act [30 ILCS 330].

(Source: Amended at 43 Ill. Reg. _____, effective _____)

Section 1540.395 Accelerated Pension Benefit Payment Program

- a) Purpose. This Section establishes policies specific to SERS concerning the Accelerated Pension Benefit Payment Options authorized by Sections 14-147.5 and 14-147.6 of the Illinois Pension Code.
- b) Payment Option Limitations
 - 1) A member needs to be an eligible person on or before June 1, 2021 in order to elect an accelerated pension benefit payment.
 - 2) A member who elects the Level Income Option is ineligible to elect an accelerated pension benefit payment.
 - 3) A member who elects the Social Security Offset Removal is ineligible to elect an accelerated pension benefit payment.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 4) A member who elects a reversionary annuity is ineligible to elect an accelerated pension benefit payment.
 - 5) A member subject to a mandatory distribution pursuant to section 401(a)(9) of the Internal Revenue Code is ineligible to elect an accelerated pension benefit payment within 30 days of the date the mandatory distribution must be paid. The election form of such a member must be received by the System at least 30 days prior to the date the mandatory distribution must be paid.
 - 6) A member who is indebted to the System because of an overpayment is ineligible to elect the accelerated pension benefit payment under section 14-147.5 of the Illinois Pension Code. That member may qualify for an accelerated pension benefit payment upon repaying the debt in full.
 - 7) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, and creditable service or earnings credit established under Article 14 of the Illinois Pension Code was used to calculate a proportional annuity or to qualify the member for a proportional annuity, is ineligible to elect an accelerated pension benefit payment.
 - 8) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, and creditable service or earnings credit established under another participating system is used to calculate the proportional annuity payable by the System established under Article 14 of the Illinois Pension Code or to qualify the member for the proportional annuity payable by the System established under Article 14 of the Illinois Pension Code is ineligible to elect an accelerated pension benefit payment.
- c) For the purposes of Section 14-147.5(a)(2) of the Illinois Pension Code, "accrued sufficient service credit to be eligible to receive a retirement annuity under this Article" shall mean that a member must have established sufficient creditable service to qualify for a retirement annuity under Article 14 of the Illinois Pension Code. Service credit on file with another participating system at the time of the member's election for an accelerated pension benefit payment under Section 14-147.5 shall be excluded for those purposes.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- d) The present value of pension benefits calculation as determined by Section 14-147.5(b) of the Illinois Pension Code shall not include any earnings credits under another participating system.
- e) For a member that elects the accelerated pension benefit payment prescribed under Section 14-147.5 of the Illinois Pension Code, the effective date of that accelerated pension benefit payment shall not be before April 1, 2019. Furthermore, the effective date of the payment shall not be before the first of the month immediately following the date in which a valid application is received by the System.
- f) The effective date for accelerated pension benefit payment prescribed under Section 14-147.6 of the Illinois Pension Code:
- 1) shall not be before December 1, 2018; and
 - 2) shall not be before the effective date of the member's retirement annuity.
- g) The accelerated pension benefit payment shall not be transferred to the member's eligible account prior to the effective date of the member's retirement annuity.
- h) A valid application for an accelerated pension benefit must be received by the System before June 1, 2021 in order to qualify a member for an accelerated pension benefit.
- i) The election to receive an accelerated pension benefit payment under Section 14-147.6 of the Illinois Pension Code becomes irrevocable on either the date the member cashes or deposits the first retirement annuity payment, or the date on which the accelerated pension benefit payment is vouchered, whichever occurs earlier.
- j) The election to receive an accelerated pension benefit payment under Section 14-147.5 of the Illinois Pension Code becomes irrevocable on the date the accelerated pension benefit payment is vouchered.
- k) Accelerated pension benefit payments shall be paid solely from the State Pension Obligation Acceleration Bond Fund. Under no circumstance will the assets of the System be used to pay accelerated pension benefit payments. All elections for an

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

accelerated pension benefit payment that will not be paid from the State Pension Obligation Acceleration Bond Fund shall be null and void.

l) Definitions

"Accelerated Pension Benefit Payment" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Illinois Pension Code.

"Creditable Service" means service defined as "creditable service" under Section 14-103.15 of the Illinois Pension Code.

"Eligible Account" means a "tax qualified retirement plan or account" required by Sections 14-147.5(e) and 14-147.6(d) of the Illinois Pension Code.

"Level Income Option" means a the benefit payment option prescribed by Section 14-112 of the Illinois Pension Code.

"Participating System" means a retirement system defined as a "participating system" by Section 20-108 of the Illinois Pension Code.

"Proportional Annuity" means a retirement annuity paid in accordance with Section 20-121 of the Illinois Pension Code.

"Reversionary Annuity" means a reversionary annuity authorized by Section 14-113 of the Illinois Pension Code.

"Social Security Offset Removal" means the 3.825% reduction to a member's retirement annuity established by Sections 14-119(d) and 14-121(g) of the Illinois Pension Code.

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act.

"Vouchered" means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 43 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
406.2	Amendment
406.4	Amendment
406.8	Amendment
406.9	Amendment
406.12	Amendment
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Rules: January 1, 2019
- 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 rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 8366; May 25, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

The term "mitigation" is changed to read: means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

The definitions "mitigation plan" and "water source" were added to read:

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb."

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers."

406.8(e)(f) were changed to incorporate testing and mitigation plan requirements for applicants and current license holders to reduce redundancy in the Rule and clarify that mitigation actions are required for test results of 2.01 ppb or higher.

406.4(f)(4) was changed to read:

The Department reserves the right to require testing upon suspicion of the day care home misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any day care home that fails to insure testing and reasonable mitigation actions when necessary may be subject to enforcement action, up to and including revocation of or refusal to renew the license

406.9(t)(5) has been changed to read:

Licenseses shall submit to their local licensing office a certificate of completion of a lead safety training stating instruction in the following topics:

Mitigation Plan strategies for test results of more than 2.01 ppb or above; and

Impact of Lead Exposure.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking:
 - These amendments implement PA 99-922 to ensure the testing of drinking water for lead in licensed day care facilities serving children birth to 6 years.
 - Lead testing parameters have been established that lead levels of 2.01 ppb or higher result in required mitigation activities to ensure the lead level is lowered to 2.00 ppb or lower.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- Training requirements have been established to address mitigation strategies in child care facilities for the purpose of providing licensees with factual information that will inform their decision on mitigation if necessary and ensure a safe water supply for children served. Early childhood advocacy organizations have worked with the Department's Division of Licensing to develop this training.
- The Department worked in conjunction with IDPH and IEPA to establish water sampling resources for licensees, a network of certified laboratories to conduct testing.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
e-mail: DCFS.Policy@illinois.gov

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

406.1	Purpose
406.2	Definitions
406.3	Effective Date of Standards (Repealed)
406.4	Application for License
406.5	Application for Renewal of License
406.6	Provisions Pertaining to the License
406.7	Provisions Pertaining to Permits
406.8	General Requirements for Day Care Homes
406.9	Characteristics and Qualifications of the Day Care Family
406.10	Qualifications for Assistants
406.11	Substitutes
406.12	Admission and Discharge Procedures
406.13	Number and Ages of Children Served
406.14	Health, Medical Care and Safety
406.15	Discipline of Children
406.16	Activity Requirements
406.17	Nutrition and Meals
406.18	Transportation of Children By Day Care Home
406.19	Swimming
406.20	Children with Special Needs
406.21	School Age Children
406.22	Children Under 30 Months of Age
406.23	Night Care
406.24	Records and Reports
406.25	Confidentiality of Records and Information
406.26	Cooperation with the Department
406.27	Severability of This Part
406.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
406.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
406.APPENDIX C	Background of Abuse, Neglect, or Criminal History Which May Prevent

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 406.APPENDIX D Licensure or Employment in a Day Care Home
Pre-Service and In-Service Training
- 406.APPENDIX E List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 32 Ill. Reg. 9137, effective June 20, 2008; amended at 34 Ill. Reg. 18358, effective December 15, 2010; amended at 36 Ill. Reg. 4103, effective March 5, 2012; amended at 36 Ill. Reg. 13057, effective August 15, 2012; amended at 36 Ill. Reg. 13388, effective August 15, 2012; amended at 37 Ill. Reg. 19127, effective November 30, 2013; amended at 40 Ill. Reg. 10769, effective July 29, 2016; emergency amendment at 42 Ill. Reg. 8519, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 187, effective January 1, 2019.

Section 406.2 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

"Adult" means any person who is 18 years of age or older.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and

a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Statewide Child Sex Offender Registry.

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.

Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.

Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.

Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.

Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.

Behavioral disability: the child exhibits an effective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.

Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment may be mild, moderate, severe or profound.

"Consultants" means those individuals providing technical assistance or advice regarding any aspect of the operation of the day care home.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care homes" means family homes which receive more than 3 up to a maximum of 12 children for less than 24 hours per day. The maximum of 12 children includes the family's natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities which receive only children from a single household. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969)

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached buildings.

"Firearm" means any device, by whatever name known, which is designed to

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels a single globular projectile not exceeding .18 inch in diameter or that has a maximum muzzle velocity of less than 700 feet per second;

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels breakable paint balls containing washable marking colors;

any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

an antique firearm (other than a machine gun) that, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. [430 ILCS 65/1.1]

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any surface that is not above or below the ground.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the day care home can care for at any one time in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year" often called the anniversary year, means the period of time from the date a day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Mitigation" means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb.

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2-month period to allow the individuals to become eligible for a license.

"Person" means any individual, group of persons, agency, association, or organization.

"Persons subject to background checks" means:

- the operators of the child care facility;
- all current and conditional employees of the child care facility;
- any person who is used to replace or supplement staff; and
- any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Premises" means the location of the day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Related" means any of the following relationships by blood, marriage, civil union, or adoption: parent, grandparent, sibling, great-grandparent, great-uncle, great-aunt, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin. (Section 2.04 of the Child Care Act of 1969 [225 ILCS 10/2.04])

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children from 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurements of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Supervising agency", as used in this Part, means a licensed child welfare agency, a licensed day care agency, or the Department.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

"Water profile" means a building's water heater, source of water and water supply lines.

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers.

(Source: Amended at 43 Ill. Reg. 187, effective January 1, 2019)

Section 406.4 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services by the supervising agency on forms prescribed and provided by the Department.
- b) Contents of Application
 - 1) A complete application shall include:
 - A) a completed, signed and dated Application for Home License;
 - B) a list of persons who will be working in the day care home, including any substitutes and assistants, and members of the

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

household age 13 and over;

- C) completed, signed and dated authorizations to conduct the background check for the applicants, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
- D) a completed, signed and dated Child Support Certification form;
- E) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;
- F) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs;
- G) a copy of high school diploma, equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution;
- H) proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the home with all educational credentials and pre-service training entered into the Registry; ~~and~~
- I) *for an initial application effective January 1, 2014 or later, proof that the home has been tested within the last 3 years for radon, as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8]; ~~and-~~*
- J) lead testing results and mitigation plans when required by Section 406.8(e) and (f).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) The applicants shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix D, which shall include the following topics for applicants and assistants who will care for infants:
 - A) Sudden Infant Death Syndrome (SIDS);
 - B) Sudden Unexpected Infant Death (SUID);
 - C) Safe sleep recommendations from the American Academy of Pediatrics;
 - D) Shaken Baby Syndrome; and
 - E) Department approved Mandated Reporter Training for all licensees and assistants, regardless of the age of children in care.
- 3) Applicants shall submit with their initial application a certificate of completion of lead safety training consisting of instruction in the following topics:
 - A) Mitigation plan for test results of 2.01 ppb or above; and
 - B) Impact of lead exposure.
- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the licensing representative performing the study and by his/her supervisor. A license may not be recommended without the receipt of at least 3 positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- d) Fire Safety Inspection

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) The Department shall request the Office of the State Fire Marshal (OSFM) to perform a fire safety inspection of homes when an initial application is being considered for licensure and when care will be provided on other than ground level and for homes in multi-housing units and submit a written recommendation of the inspection to the supervising agency of the day care home and to the applicant;
 - 2) The fire safety inspection on single floor homes, at ground level with no unusual or complex code considerations, shall be completed following the list of items for fire safety inspection in Appendix E by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to the Department issuance of a permit or a license, the day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.
- e) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- f) New Applications
- 1) A new application shall be filed when any of the following occurs:
 - A) When an application for a license has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;
 - B) When there is a failure to submit a completed application within 14 days after a change of the location of the day care home; or
 - C) Not sooner than 12 months after the Department has revoked or refused to renew a license, after the previous license has been surrendered with cause, or refused to issue a full license to a permit holder, and a new license is sought.
 - 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
- B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 43 Ill. Reg. 187, effective January 1, 2019)

Section 406.8 General Requirements for Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, thermometer, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 or 1-800-942-5969), sterile gauze pads, adhesive tape, tweezers and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) All electrical outlets that are in areas used by the day care children shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within each room where children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.* For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15% of the replacement cost of the day care home. For homes that did not have wired installation of smoke detectors in each room prior to December 15, 2011, the Department may allow the installation of a battery-operated smoke detector in each room where children nap or sleep and deem the home to be in compliance.
- C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section.* (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])
- D) For homes constructed after December 15, 2011, or that underwent substantial remodeling of structure or wiring systems after December 15, 2011, the smoke detectors shall be permanently wired into the structure's AC power line and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.
- 5) Carbon Monoxide Detector
- A) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) *The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5). [430 ILCS 135/10]*
- 6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 8) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a day care home during the hours that child care is provided.
- 9) Facilities in which a wood-burning stove or fireplace has been installed and which is used during the hours that child care is provided shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 10) When the basement area may be used for child care, 2 exits shall be provided.
- A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
- B) A second exit may be a window.
- i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
 - iii) When the bottom of the window opening used as a second exit is greater than 24 inches above the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
- C) If the basement area does not meet the requirements in subsections (a)(10)(A) and (B), the basement may be used for child care only with the prior written approval of OSFM.
- 11) All walls and surfaces shall be maintained free from lead paint and from chipped or peeling paint.
 - 12) Walls of rooms that children use shall be free of carpeting, fabric or plastic products. Inflammable or combustible artwork attached to the walls shall not exceed 20% of any wall area.
 - 13) Furniture and equipment shall be kept in safe repair.
 - 14) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam™ and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
 - 15) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
 - 16) An operable telephone shall be available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 17) *Handguns are prohibited on the premises of the day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the day care home. The licensee shall post a "no firearms" sign, as described in Section 65(d) of the Firearm Concealed Carry Act [430 ILCS 66/65(d)], in a visible location where parents pick up children.*
- 18) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (a)(17), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- A) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- B) *The operator of the home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are locked in storage inaccessible to children. (Section 7 of the Child Care Act of 1969 [225 ILCS 10/7]) The notification need not disclose the location where the firearms and ammunition are stored.*
- 19) *Written emergency preparedness plans shall be developed and shall specify the actions to be taken in the event of a fire, tornado or other emergency. Caregivers and assistants in the home shall be familiar with these plans. The emergency preparedness plans shall include, but are not limited to:*
- A) *A fire evacuation plan identifying exits from each area used for child care and specifying the evacuation route;*
- B) *A fire evacuation plan identifying a safe assembly area outside of the home. It shall also identify a nearby indoor location for post-evacuation holding if needed;*
- C) *A fire evacuation plan requiring that the home be evacuated*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

immediately and the children's safety insured before calling the local emergency number 911 or attempting to combat the fire;

- D) A tornado plan specifying actions that will be taken in the event of tornado or other severe weather warning, including designation of those areas of the home to be used as safe spots;
 - E) Specific procedures for notifying parents if evacuation is necessary and how they will be reunited with their children;
 - F) Specific procedures for evacuating children who are less than 30 months of age and/or for evacuating special needs children when applicable;
 - G) Monthly fire drills to be conducted for the purpose of removing children from the home as quickly as possible; and
 - H) Monthly tornado drills to be conducted for the purpose of getting children accustomed to moving to a position of safety in the event of a tornado.
- 20) The licensee shall hold monthly fire safety inspections of the day care home and maintain documentation on file for a period of 1 year.
- 21) Fire and tornado drills shall be documented and that documentation shall be maintained on file for a period of 3 years.
- 22) Escape routes from the home shall be designed and maintained for swift and safe exiting in the event of an emergency.
- A) All corridors and escape routes from the home shall be kept clear of obstructions.
 - B) Dead-end paths or corridors within the home shall be a maximum of 20 feet in length.
 - C) All escape routes from the home shall have operable lighting. The lighting shall be activated during any hours of operation when

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

natural lighting is reduced to a level that prohibits visibility within the escape route.

- D) Bathroom doors in areas accessible to day care children shall allow a caregiver to open the door from outside of the bathroom if necessary.
 - E) All closet doors accessible to children shall be able to be opened from inside of the closet without the use of a key.
 - F) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
 - G) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open for exit to the outside.
 - H) Exit doors and exit windows shall be kept clear of equipment and debris at all times.
- 23) The licensee shall inspect the home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable. A log of these daily inspections shall be maintained for at least one year, and shall be available for review. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- 24) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
- 25) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Day care homes that have a license or a permit on April 1, 2001 and are in

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.

- 26) Portable wading pools shall be emptied daily and disinfected before being air-dried.
 - 27) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
 - 28) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
 - 29) Effective January 1, 2013, the home shall be tested for radon at least once every 3 years. The most current radon measurements shall be posted next to the license in the home, on a form provided by the Department, containing the required informative statement from Section 5.8(d) of the Child Care Act of 1969 [225 ILCS 10].
- b) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.
 - c) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
 - d) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to renewal of license. If nitrate content exceeds 10 ~~ppm~~parts per million, bottled water must be used for children under 15 months of age.
 - e) Any day care home currently licensed as of January 1, 2019 shall submit a survey provided by its day care licensing office that includes the construction date of the home. The construction date for new day care home applicants is captured on the CFS 597-DCI form.
 - f) Any day care home serving children under 6 years of age and housed in a building constructed on or before January 1, 2000 shall be subject to lead in water testing by

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

an IEPA laboratory or an IEPA-certified laboratory. A current list of certified laboratories can be obtained by contacting the Day Care Information Line at 1-877-746-0829, or can be accessed online through <https://sunshine.dcf.illinois.gov/Content/Licensing/LeadTesting.aspx>. Water sampling guidelines followed by certified laboratories may also be accessed through this link. Test results and mitigation plans, when required, shall be submitted to the local licensing office within 120 days after notification of test results of 2.01 ppb or above.

- 1) All lead in water test results (at, above or below 2.01 ppb) shall be posted in the home in a visible location and submitted by the applicant or licensee directly to his or her local licensing office.
- 2) A mitigation plan shall be made available to parents and submitted to the local licensing office if test results indicate the presence of lead for each drinking water source with a result of 2.01 ppb or above and shall specify:
 - A) Interim measures the applicant/licensee will take to ensure a safe drinking water supply during mitigation;
 - B) Mitigation plan start and planned completion dates;
 - C) Retesting dates, to include one test to occur no later than six months following the completion of a mitigation plan and a second test no later than one year after the completion of a mitigation plan;
 - D) Each drinking water source that tested at 2.01 ppb or higher and the planned mitigation activity for each source. Examples of acceptable mitigation strategies include, but are not limited to, installation of mechanical flushing devices, replacement of lead-based lines or fixtures, or reverse osmosis filters installed at affected drinking water fixtures; and
 - E) In extenuating circumstances in which mitigation cannot be readily undertaken (e.g., lead in the municipal water source), alternative external sources of water that tests below 2.01 ppb, such as bottled water with that test result, may be used subject to Department approval.
- 3) Following successful mitigation that results in two consecutive tests of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

lower than 2.01 ppb, further testing is only required if there has been any change to the water profile of the building, including, but not limited to, replacement of the hot water heater, change in the water source, or change to, or replacement of, the water service lines.

- 4) The Department reserves the right to require testing upon suspicion of the day care home misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any day care home that fails to insure testing and reasonable mitigation actions when necessary may be subject to enforcement action, up to and including revocation of, or refusal to renew, the license.

ge) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.

hf) Insect and rodent control shall be maintained.

- 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
- 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.

ig) Healthy household pets that present no danger to children are permitted.

- 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
 - 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- jh) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet or linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- ki) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. When the licensed capacity of the home

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

exceeds 8 children, there shall be:

- 1) A minimum of 35 square feet of floor space per each child in care; and
 - 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage for the bedding materials and the bedding materials are removed before and after naptime.
- lj) *No person may smoke tobacco in any area of the day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- mk) There shall be safe outdoor space for active play.
- 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care home premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.
 - B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No openings shall be between ¾ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
- 6) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
- 7) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 406.9.
- nl) Operation of other business on the premises must not interfere with the care of children.
- om) A day care home may not house bedridden or chronically ill persons except by permission of the supervising agency. The supervising agency shall grant such permission unless the person has a contagious or a reportable communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.
- pn) A day care home shall have certification that all cribs used by the home meet or exceed the federal safety standards in 16 CFR 1219 or 1220 (2011). This certification from the manufacturer shall be available for inspection by the licensing representative. In the absence of a manufacturer's certificate, proof that

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

the crib was manufactured on or after June 28, 2011 will meet the required standard.

(Source: Amended at 43 Ill. Reg. 187, effective January 1, 2019)

Section 406.9 Characteristics and Qualifications of the Day Care Family

- a) No individual may receive a license from the Department when the applicant, a member of the household age 13 and over, or any individual who has access to the children cared for in a day care home, or any employee of the day care home, has not authorized the background check required by 89 Ill. Adm. Code 385 (Background Checks) and been cleared in accordance with the requirements of Part 385.
- b) Employees subject to background checks may begin employment on a conditional basis while awaiting the results of the background check. ~~TheSuch~~ employees may not be alone with children until the results of the initial background check have been received.
- c) Persons who have been the perpetrator of certain types of child abuse or neglect or who have committed or attempted to commit certain crimes may not be licensed to operate a day care home, be a member of the household of a family home in which a day care home operates, or be an employee or volunteer in a day care home. These allegations/criminal convictions are listed in Appendix C of this Part.
- d) Day care homes shall be responsible for ensuring that persons subject to criminal background checks make themselves available for fingerprinting when scheduled by the Department or its authorized representatives. Failure of a person subject to criminal background checks to appear for scheduled fingerprinting may result in the denial of a license application or refusal to renew or revocation of an existing license unless the child care facility can demonstrate that it took reasonable measures to insure cooperation with the fingerprinting process. Adequate cause for failure to appear for fingerprinting includes, but is not limited to:
 - 1) death in the family of the person;
 - 2) serious illness of the person or illness in the person's immediate family; or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) weather or transportation emergencies.
- e) As a condition of licensure, each licensee or license applicant must *certify under penalty of perjury that he or she is current or not more than 30 days delinquent in complying with a child support order. Failure to so certify may result in a denial of the license application, refusal to renew the license, or revocation of the license.* (Section 10-65(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-65(c)])
- f) If the licensees or license applicants acknowledge that they are more than 30 days delinquent in complying with an order for child support or, upon completion of the background check, the licensees or license applicants are found to be delinquent despite their certification, the Department shall deny the application for license, refuse to renew the license, or revoke the license unless the licensees or license applicants arrange for payment of past due and current child support and pay child support in accordance with that agreement.
- g) Members of the household who have contact with the children in care shall treat them with respect, courtesy, and patience.
- h) The caregiver is responsible for the day-to-day operation of the day care home in accordance with the standards prescribed in this Part.
- i) The licensee shall be present in the home when day care children are in attendance unless a qualified substitute caregiver per Section 406.11 is present.
- j) The licensee and other adult members of the household in contact with day care children shall be stable, law abiding, responsible, mature individuals.
- k) The caregivers in a day care home shall be at least 18 years of age.
- l) Caregivers licensed after January 1, 2011 shall have proof of a high school diploma, equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution.
- m) The caregivers and all members of the household shall provide medical evidence as required by Section 406.24(i) that they are free of reportable communicable disease, and, in the case of caregivers, free of physical or mental conditions that could interfere with the child care responsibilities.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- n) The licensee who is the primary caregiver shall be certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross, the American Heart Association or other entity approved by the Illinois Department of Public Health.
- o) During the hours of operation of the day care home, there shall be at least one person on the premises certified in first aid, the Heimlich maneuver and infant/child cardiopulmonary resuscitation (CPR) by the American Red Cross or the American Heart Association, or other entity approved by the Illinois Department of Public Health. The caregivers shall have on file current certificates attesting to the training.
- p) The caregiver shall successfully complete a Department approved basic training course of 6 or more clock hours in providing care to children with disabilities. Refer to Appendix D for basic course requirements. The licensee shall have on file a certificate attesting to the successful completion of the training.
- 1) New licensee shall complete this training within 36 months from the issue date of the initial license.
 - 2) A licensee who has completed training prior to November 15, 2003 may have that training approved as meeting the provisions of this Section. A certificate of training completion and a description of the course content must be submitted to the Department for approval.
- q) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition.
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals.
 - 3) The ability to communicate with children.
 - 4) The ability to set realistic controls for children and to enforce these

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

without harshness or physical abuse.

- 5) Knowledge of the child's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning.
 - 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.
- r) The caregivers may not work or be employed outside the home during the hours the day care home is licensed. Outside employment during hours that child care is not being provided shall not interfere with child care.
- s) The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 406.23(h), ~~night care~~.
- t) The caregivers shall complete 15 clock hours of in-service training per licensing year in accordance with the requirements in Appendix D.
- 1) The~~Such~~ training may be derived from programs offered by any of the entities identified in Appendix D.
 - 2) Courses or workshops to meet this requirement include, but are not limited to, those listed in Appendix D.
 - 3) The records of the day care home shall document the training in which the caregiver has participated, and these records shall be available for review by the Department.
 - 4) Caregivers obtaining clock hours in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.
 - 5) Licensees shall submit to the local licensing office a certificate of completion of lead safety training consisting of instruction in the following topics:
 - A) Mitigation plan strategies for test results of 2.01 ppb or above; and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

B) Impact of lead exposure.

- u) Licensees or applicants shall not provide false or misleading information regarding their compliance with the applicable regulations.

(Source: Amended at 43 Ill. Reg. 187, effective January 1, 2019)

Section 406.12 Admission and Discharge Procedures

- a) No child served in a day care home shall remain on the premises for more than 12 hours in any 24-hour period, unless the parent's employment schedule requires more than 12 hours of day care. Regardless of the parent's work or training schedule, at no time shall children cared for in a day care facility remain on the premises for more than 18 consecutive hours.
- b) Prior to acceptance of a child for care:
 - 1) The caregiver shall require that the parent or guardian accompany the child to the home to become acquainted with the caregiver and with the service to be provided.
 - 2) No child under 6 years of age may be admitted to the day care home unless the health examination, complete with lead risk assessment, if the child resides in an area defined as low risk by the Illinois Department of Public Health or a screening for lead poisoning, if the child resides in an area defined as high risk by the Illinois Department of Public Health (see 77 Ill. Adm. Code 845; Lead Poisoning Prevention Code), has been completed as required by Department of Public Health rules at 77 Ill. Adm. Code 665; Child Health Examination Code).
 - 3) The caregiver shall require that the parent or guardian provide a certified copy of the child's birth certificate. The caregiver:
 - A) Shall provide a written notice to the parent or guardian of a child to be *enrolled for the first time that within 30 days* after enrollment the parent or guardian shall *provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child.*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) The caregiver shall promptly make a copy of the certified copy and return the original certified copy to the parent or guardian.
 - ii) If a certified copy of the birth certificate is not available, the parent or guardian must submit *a passport, visa or other governmental documentation as proof of the child's identity and age and an affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate* [325 ILCS 50/5].
 - iii) The notice to parent or guardian shall also indicate that the caregiver is required by law to notify the Illinois State Police or local law enforcement agency if the parent or guardian fails to submit proof of the child's identity within the 30 day time frame;
- B) Shall notify the Illinois State Police or local law enforcement agency of the parent's or guardian's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The caregiver shall also *notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law and that the parent or guardian has 10 additional days to comply* by submitting the required documentation; [325 ILCS 50/5]
- C) *Shall report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content;* [325 ILCS 50/5]
- D) *Shall flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child.* [325 ILCS 50/5]
- c) The parents or guardian shall be permitted to visit the home, without prior notice, during the hours their children are in care.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- d) A child shall be discharged from the facility only to the child's parents or guardian or to a person designated in writing by the parents or guardian to receive the child.
- e) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parents or guardian to receive the child. Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.
- f) The facility shall maintain a list of persons designated, in writing, by the parents, or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parents or guardian, shall constitute the primary list of persons to whom the child may be released. In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parents or guardian to whom the child may be released less frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).
- g) Other discharge provisions of this Section notwithstanding, a child leaving the day care home to attend school shall be released in accordance with the written authorization of the parents or guardian. The authorization shall include the time that the child is to be released and the means of transportation the child is to use.
- h) All day care homes shall have a written policy that explains the actions the provider will take if a parent or guardian does not retrieve, or arrange to have someone retrieve, his or her child at the designated, agreed upon time. The policy shall consist of the provider's expectations, clearly presented to the parent or guardian, in the form of a written agreement that shall be signed by the parent or guardian, and shall include at least the following elements:
 - 1) The consequences of not picking up the child on time, including:
 - A) Amount of late fee, if any, and when those fees begin to accrue;
 - B) The degree of diligence the provider will use to reach emergency

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

contacts, e.g., number of attempted phone calls to parents and emergency contacts, requests for police assistance in finding emergency contacts; and

- C) Length of time the facility will keep the child beyond the pick-up time before contacting outside authorities, such as the child abuse hotline or police.
- 2) Emphasis on the importance of having up-to-date emergency contact numbers on file.
 - 3) Acknowledgement of the provider's responsibility for the child's protection and well-being until the parent or outside authorities arrive.
 - 4) A reminder to the day care provider that the child is not responsible for the situation. All discussions regarding these situations shall be with the parent or guardian, never the child.
- i) The daily list of children in care shall be readily accessible in case of emergency evacuations and fire drills.

(Source: Amended at 43 Ill. Reg. 187, effective January 1, 2019)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Centers
- 2) Code Citation: 89 Ill. Adm. Code 407
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
407.45	Amendment
407.50	Amendment
407.130	Amendment
408.250	Amendment
408.370	Amendment
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Rules: January 1, 2019
- 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 rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: 42 Ill. Reg. 8369; May 25, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

The term "mitigation" is changed to read: means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

The definitions "mitigation plan" and "water source" were added to read:

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb."

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers."

407.50(b)(9) and(10) was changed to read:

Lead testing results and mitigation plans when required by Sections 407.370 (i) and (j).

Applicants shall submit with their initial application a certificate of completion of lead safety training consisting of instruction in the following topics:

Mitigation plan strategies for test results of 2.01 ppb or above; and

Impact of lead exposure."

407.130(m) was changed to read:

Directors shall submit to their local licensing office a certificate of completion of lead safety training consisting of instruction in the following topics:

Mitigation plan strategies for test results of 2.01 ppb or above; and

Impact of lead exposure..

407.370(i)(j) were changed to read:

Any day care center currently licensed as of January 1, 2019 shall submit a survey provided by its day care licensing office that includes the construction date of the building in which the center operates. The construction date for new day care center applicants is captured on the CFS 597 form.

Any day care center serving children under 6 years of age housed in a building constructed on or before January 1, 2000 shall be subject to lead in water testing by an IEPA laboratory or an IEPA-certified laboratory. A current list of certified laboratories can be obtained by contacting the Day Care Information Line at 1-877-746-0829, or can be accessed online through <https://sunshine.dcf.illinois.gov/Content/Licensing/LeadTesting.aspx>. Water sampling guidelines followed by certified laboratories may also be accessed through this link. Test results and mitigation plans, when required, shall be submitted to the local licensing office within 120 days after notification of test results of 2.01 ppb or above.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

All lead in water test results (at, above or below 2.01 ppb) shall be posted in the center in a visible location and submitted by the applicant or licensee directly to the local licensing office.

A mitigation plan shall be made available to parents and submitted to the local licensing office if test results indicate the presence of lead for each drinking water supply with a result of 2.01 ppb or above and shall specify:

Interim measures the applicant/licensee will take to ensure a safe drinking water supply during mitigation;

Mitigation plan start and planned completion dates;

Retesting dates to include one test to occur no later than six months following the completion of a mitigation plan and a second test no later than one year from the completion of a mitigation plan;

Each drinking water source that tested at 2.01 ppb or above and the planned mitigation activity for each source. Examples of acceptable mitigation strategies include, but are not limited to, installation of mechanical flushing devices, replacement of lead-based lines or fixtures, or reverse osmosis filters installed at affected drinking water fixtures; and

In extenuating circumstances in which mitigation cannot be readily undertaken (e.g., lead in the municipal water source), alternative external sources of water that tests below 2.01 ppb, such as bottled water with that test result, may be used subject to Department approval.

Following successful mitigation that results in two consecutive tests below 2.01 ppb, further testing is only required if there has been any change to the water profile of the building, including but not limited to replacement of the hot water heater, change in the water source, or change to, or replacement of, the water service lines.

407.370(j)(4) was changed to read:

The Department reserves the right to require testing upon suspicion of the day care center misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any day care center facility that fails to insure testing and reasonable mitigation action when necessary may be subject to enforcement action, up to and including revocation of, or refusal to renew, the license

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking:
- These amendments implement PA 99-922 to ensure the testing of drinking water for lead in licensed day care facilities serving children birth to 6 years.
 - Lead testing parameters have been established that lead levels of 2.01 ppb or higher result in required mitigation activities to ensure the lead level is lowered to 2.00 ppb or lower.
 - Training requirements have been established to address mitigation strategies in child care facilities for the purpose of providing licensees with factual information that will inform their decision on mitigation if necessary and ensure a safe water supply for children served. Early childhood advocacy organizations have worked with the Department's Division of Licensing to develop this training.
 - The Department worked in conjunction with IDPH and IEPA to establish water sampling resources for licensees, a network of certified laboratories to conduct testing.
- 16) Information and questions regarding these adopted rules shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
e-mail: DCFS.Policy@illinois.gov

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 407

LICENSING STANDARDS FOR DAY CARE CENTERS

Section

407.1	Purpose (Repealed)
407.2	Definitions (Repealed)
407.3	Effective Date of Standards (Repealed)
407.4	Application for License (Repealed)
407.5	Application for Renewal of License (Repealed)
407.6	Provisions Pertaining to the License (Repealed)
407.7	Provisions Pertaining to Permits (Repealed)
407.8	Organization and Administration (Repealed)
407.9	Finances (Repealed)
407.10	General Requirements for Personnel (Repealed)
407.11	Child Care Director (Repealed)
407.12	Child Care Workers and Group Workers (Repealed)
407.13	Child Care Assistants (Repealed)
407.14	Use of Students (Repealed)
407.15	Service Staff (Repealed)
407.16	Substitutes and Volunteers (Repealed)
407.17	Background Inquiry (Repealed)
407.18	Admission and Discharge Procedures (Repealed)
407.19	Discipline (Repealed)
407.20	Personal Care and Hygiene (Repealed)
407.21	Program (Repealed)
407.22	Equipment and Materials (Repealed)
407.23	Grouping and Staffing (Repealed)
407.24	Nutrition (Repealed)
407.25	Night Care (Repealed)
407.26	Children with Special Needs (Repealed)
407.27	Infants and Toddlers (Repealed)
407.28	School-Age Children (Repealed)
407.29	Health Requirements for Children (Repealed)
407.30	Transportation (Repealed)
407.31	Plant and Equipment (Repealed)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 407.32 Records and Reports (Repealed)
- 407.33 Confidentiality of Records and Information (Repealed)
- 407.34 Records Retention (Repealed)
- 407.35 Severability of This Part (Renumbered)

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section

- 407.40 Purpose and Applicability
- 407.45 Definitions

SUBPART B: PERMITS AND LICENSES

Section

- 407.50 Application for License
- 407.55 Application for Renewal of License
- 407.60 Provisions Pertaining to the License
- 407.65 Provisions Pertaining to Permits

SUBPART C: ADMINISTRATION

Section

- 407.70 Organization and Administration
- 407.80 Confidentiality of Records and Information

SUBPART D: STAFFING

Section

- 407.90 Staffing Structure
- 407.100 General Requirements for Personnel
- 407.110 Background Checks for Personnel
- 407.120 Personnel Records
- 407.130 Qualifications for Child Care Director
- 407.140 Qualifications for Early Childhood Teachers and School-age Workers
- 407.150 Qualifications for Early Childhood Assistants and School-age Worker Assistants
- 407.160 Students and Youth Aides
- 407.170 Substitutes
- 407.180 Volunteers
- 407.190 Grouping and Staffing

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: PROGRAM REQUIREMENTS

Section

- 407.200 Program Requirements for All Ages
- 407.210 Special Requirements for Infants and Toddlers
- 407.220 Special Requirements for School-Age Children
- 407.230 Intergenerational Programs
- 407.240 Evening, Night, Weekend and Holiday Care

SUBPART F: STRUCTURE AND SAFETY

Section

- 407.250 Enrollment and Discharge Procedures
- 407.260 Daily Arrival and Departure of Children
- 407.270 Guidance and Discipline
- 407.280 Transportation
- 407.290 Swimming and Wading
- 407.300 Animals

SUBPART G: HEALTH AND HYGIENE

Section

- 407.310 Health Requirements for Children
- 407.320 Hand Washing
- 407.330 Nutrition and Meal Service
- 407.340 Diapering and Toileting Procedures
- 407.350 Napping and Sleeping
- 407.360 Medications

SUBPART H: FACILITY AND EQUIPMENT

Section

- 407.370 Physical Plant/Indoor Space
- 407.380 Equipment and Materials
- 407.390 Outdoor Play Area

SUBPART I: SEVERABILITY OF THIS PART

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section

407.400 Severability of This Part

407.APPENDIX A	Equipment for Infants and Toddlers
407.APPENDIX B	Equipment for Preschool Children
407.APPENDIX C	Equipment for School-Age Children
407.APPENDIX D	Infant Daily Food Requirements
407.APPENDIX E	Meal Patterns and Serving Sizes for Child Care Programs
407.APPENDIX F	Resource Reference List
407.APPENDIX G	Early Childhood Teacher Credentialing Programs
407.APPENDIX H	Playground Surfacing and Critical Height

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children's Product Safety Act [430 ILCS 125].

SOURCE: Adopted and codified at 7 Ill. Reg. 9215, effective August 15, 1983; amended at 8 Ill. Reg. 8713, effective June 15, 1984; amended at 8 Ill. Reg. 24937, effective January 1, 1985; amended at 16 Ill. Reg. 7597, effective April 30, 1992; emergency amendment at 20 Ill. Reg. 11366, effective August 1, 1996, for a maximum of 150 days; emergency expired December 28, 1996; amended at 21 Ill. Reg. 923, effective January 15, 1997; amended at 22 Ill. Reg. 1728, effective January 1, 1998; amended at 24 Ill. Reg. 17036, effective November 1, 2000; amended at 28 Ill. Reg. 3011, effective February 15, 2004; amended at 29 Ill. Reg. 4502, effective March 15, 2005; amended at 34 Ill. Reg. 4700, effective March 22, 2010; amended at 36 Ill. Reg. 13076, effective August 15, 2012; amended at 38 Ill. Reg. 17293, effective August 1, 2014; emergency amendment at 42 Ill. Reg. 8555, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 224, effective January 1, 2019.

SUBPART A: INTRODUCTION, DEFINITIONS, AND APPLICABILITY

Section 407.45 Definitions

"Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

"Age-appropriate safety restraint" for a child under 4 years of age means a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) that meets the standards of the United States Department of Transportation designed

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

to restrain, seat or position children. For a child 4 years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Attendance" means the total number of children present at any one time.

"Authorized representative of the Department" means a licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

- a criminal history check via fingerprints of persons age 17 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; ~~and~~
- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other states' child protection systems, as appropriate, to determine whether an individual has been alleged or indicated as a perpetrator of child abuse or neglect; and
- a check of the Illinois Sex Offender Registry.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. (Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05])

"Child care staff" means all staff members providing direct care to children.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Consultant" means a person providing technical assistance or advice regarding any aspect of the program operation.

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, sanitizable fabric, that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Day care center" means any child care facility which regularly provides day care for less than 24 hours per day for more than 8 children in a family home or more than 3 children in a facility other than a family home, including senior citizen buildings. The term does not include:

- *programs operated by public or private elementary school systems or secondary level school units or institutions of higher learning that serve children who shall have attained the age of 3 years; ~~or~~*
- *private entities on the grounds of public or private elementary or secondary schools that serve children who have attained the age of 3 years, except that this exception applies only to the facility and not to the private entities' personnel operating the program;*
- *programs or that portion of the program which serves children who shall have attained the age of 3 years and which are recognized by the State Board of Education;*
- *educational program or programs serving children who shall have attained the age of 3 years and which are operated by a school which is registered with the State Board of Education and which is recognized or accredited by a recognized national or multi-state educational organization or association which regularly recognizes or accredits schools;*
- *programs which exclusively serve or that portion of the program which serves handicapped children who shall have attained the age of 3 years*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

but are less than 21 years of age and which are registered and approved as meeting standards of the State Board of Education and applicable fire marshal standards;

- *facilities operated in connection with a shopping center or service, religious services or other similar facility where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available;*
- *any type of day care center that is conducted on federal government premises;*
- *special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations;*
- *part day child care facilities, as defined in Section 2.10 of the Child Care Act of 1969; or*
- *programs or that portion of the program which:*
 - *serves children who shall have attained the age of 3 years;*
 - *is operated by churches or religious institutions as described in section 501(c)(3) of the federal Internal Revenue Code;*
 - *receives no governmental aid;*
 - *is operated as a component of religious, nonprofit elementary school;*
 - *operates primarily to provide religious education; and*
 - *meets appropriate State or local health and fire safety standards.*

For purposes of this Section, "children who shall have attained the age of 3 years" shall mean children who are 3 years of age, but less than 4 years of age, at the time of enrollment in the program. (Section 2.09 of the Child Care Act of 1969 [225 ILCS 10/2.09])

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Department" means the Illinois Department of Children and Family Services.
(Section 2.02 of the Child Care Act of 1969 [225 ILCS 10/2.02])

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of tap water and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects.

"Early childhood" means the years from birth through age 6.

"Early childhood assistant" means a staff member who works under the direct supervision of an early childhood teacher and does not assume responsibility for a group of children.

"Early childhood teacher" means a staff member responsible for a group of infants, toddlers or preschool children.

"Employee", as used in this Part, means any staff person employed by a child care facility and includes any substitute or assistant. This definition includes administrative, professional and support staff who have access to children in their present or prospective employment.

"Enrollment" means the total number of children served by the facility on either a part-time or full-time basis.

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of administrators and staff that allows them to establish a profile in the registry of their educational attainment and professional development.

"Governing body", as used in this Part, means the board of directors of a corporation. Otherwise, the term means the owners or other persons, agency, association or organization legally responsible for the operation of the day care center that serves as the policy-making authority and that exercises general direction over the affairs of the facility.

"Group" means a specific number of children who remain together at least 60

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

percent of the time they are at the facility.

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Guidance/discipline" means the ongoing process of helping children to develop inner controls so that they can manage their own behavior in socially approved ways.

"Infant" means a child from 6 weeks through 14 months of age.

"Initial background check" means fingerprints have been obtained, as verified by a receipt from the fingerprint vendor, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"Intergenerational activities" means activities that involve children and adults in shared activities that occur at least monthly on a regular basis.

"Kindergarten child" means a child currently enrolled in kindergarten who is eligible to attend first grade during the next school year.

"LEADS" means the Law Enforcement Agency Data System.

"License" means a document issued by the Department of Children and Family Services that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License study", as used in this Part, means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the maximum number of children permitted in the facility at any one time.

"Licensee" means an individual, agency, or organization who holds a license or permit issued by the Department of Children and Family Services.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Licensing representative", for the purposes of this Part, means Department staff authorized under the Child Care Act of 1969 to examine facilities for licensure.

"Mitigation" means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb.

"Parental involvement" means parental assistance with a child care program such as participation in field trips, parties, attendance on special days for special events, or parental support and cooperation in the classroom.

"Parents" or "Parent", as used in this Part, means persons assuming legal responsibility for the care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Partially exempt program" means a child care program for children who have attained the age of 3 years and is operated by a private entity on grounds of a public or private elementary or secondary school where children have been attending school during the day. In a partially exempt program, the physical facility is exempt from Department regulations; however, the Department regulates the personnel and operating programs.

"Passive screen viewing" means the passive, sedentary use of age-appropriate and educational media through screen-based technologies, such as television, video, DVDs, visual recordings and other non-interactive technologies.

"Permit", as used in this Part, means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals, agency, or organization to operate a day care center and to become eligible for a full license.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

"Preschooler" means a child from 3 through 5 years of age. Children enrolled in

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

kindergarten may be considered either preschool or school-age. Children 2 years of age may be considered preschoolers or toddlers, depending on their level of development.

"Program" means all activities provided for the children during their hours of attendance in the facility.

"Related services" refers to, but is not limited to, supportive services (psychological, medical, social, or health) for children in a facility.

"Replace or supplement staff" means a paid or unpaid individual who performs essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children outside the visual or auditory supervision of child care staff. It also includes professional contractual staff, such as physicians, nurses, therapists, etc., if the professional provides services within the facility and is allowed access to children outside the visual or auditory supervision of staff.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to children.

"Resources" may include related services mentioned above and community agencies such as, but not limited to, libraries, university laboratories and their professional staffs, audiovisual materials, museums, and parks.

"Risk management plan" means a document that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"School-age" means a child up to 18 years of age who is enrolled in 1st grade or higher. Children attending kindergarten may be considered either preschool or school-age.

"School-age assistant" means a staff member who works under the direct supervision of a school-age worker.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"School-age director" means a person designated by the governing body to assume full administrative responsibility for the ongoing operation of one or more sites (not to exceed 6) and who meets the qualifications for a child care director as outlined in Section 407.130.

"School-age site coordinator" means a person responsible for implementing curriculum and ensuring that licensing standards are met at the site of a school-age program serving a maximum of 50 children and that is overseen by a school-age director responsible for multiple sites.

"School-age worker" means a staff member who has lead responsibility for a group of school-age children.

"Site" means the physical location in which a day care center operates. A site may consist of more than one building if all of the buildings within the site are connected by property under the exclusive control of the day care center that is used as a playground, for parking, or for other day care related purposes.

"Support staff" means any staff member providing indirect care and services to children in a day care center, such as a driver, cook, janitor, or clerical staff.

"Swimming pool", for purposes of this Part, means any natural or artificial basin of water intended for public swimming or recreational bathing that exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code. The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Toddler" means a child from 15 months to 2 years of age. The term may include a child up to 30 months of age depending upon physical or social development.

"Tummy time" means a supervised period of time when an infant is allowed to lie on his or her abdomen to help strengthen the head, neck and shoulder muscles.

"Universal precautions" means an approach to infection control. According to the concept of Universal Precautions, all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

"Wading pool", for purposes of this Part, means any natural or artificial basin of

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity as specified in the Illinois Swimming Pool and Bathing Beach Act and Code. The term includes recessed areas less than 2'6" in depth in swimming pools and includes wading pools at private clubs, health clubs and private residences when used for children enrolled in a child care facility.

"Water profile" means a building's water heater, source of water and water supply lines.

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers.

(Source: Amended at 43 Ill. Reg. 224, effective January 1, 2019)

SUBPART B: PERMITS AND LICENSES

Section 407.50 Application for License

- a) The application for license shall be completed by the officers of the governing body of the day care center, or its authorized representative, on forms prescribed and furnished by the Department.
- b) Only complete applications shall be processed. Incomplete or unsigned applications shall be returned for completion and signature. For the application to be considered complete, the following shall be attached to the application form:
 - 1) Articles of incorporation and by-laws, if incorporated, indicating that the center's corporate status is in good standing with the Illinois Secretary of State;
 - 2) Statement of purposes and policies as required by Section 407.250(c);
 - 3) List of officers, board members and committees of the governing body;
 - 4) Annual operating budget showing anticipated expenses and income (required in original application only);

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Staffing plan that includes job descriptions and the qualifications of the staff;
- 6) Written delegation of administrative authority as required by Section 407.70(b);
- 7) A list of persons subject to the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) and each person's complete, signed authorization to conduct the background check; ~~and~~
- 8) *Effective January 1, 2014, as part of an initial application, the Department shall require proof the center has been tested within the last 3 years for radon by a Radon Measurement Professional licensed by the Illinois Emergency Management Agency (see 32 Ill. Adm. Code 422)- [225 ILCS 10/5.8];*
- 9) Lead testing results and mitigation plans when required by Section 407.370(i) and (j).
- 10) Applicants shall submit with their initial application a certificate of completion of lead safety training consisting of instruction in the following topics:
 - A) Mitigation plans for test results of 2.01 ppb or above; and
 - B) Impact of lead exposure.
- c) Applications submitted on or after September 1, 2012 shall include proof of membership in the Gateways to Opportunity Registry by all staff and assistants and by the director of the facility with all their educational and training requirements entered into the registry.
- d) Upon receipt of a complete, signed application for a license, the Department shall conduct a license study in order to determine that the day care center meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The applicant shall receive a copy of the license study upon written request and payment of copying costs.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- e) A new application shall be filed:
- 1) When an application for license has been withdrawn, and the center seeks to reapply;
 - 2) When there is a change of address of the day care center; ~~and~~
 - 3) When there is a change of name, ownership or corporate status of the center.
- f) If the Department has revoked or refused to renew the license of a day care center and the former licensee or $\frac{1}{3}$ or more of the members of its governing body seek to reapply for license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted, the Department shall impose provisions on the new license for a minimum of 2 years, notwithstanding any other provisions of this Part. *The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969, or maintaining a facility which adheres to such standards and rules.* [225 ILCS 10/6(c)]
- g) The Department must approve that the facility is in reasonable compliance with the licensing standards before the day care center changes its operations regarding the number or ages of children served.

(Source: Amended at 43 Ill. Reg. 224, effective January 1, 2019)

SUBPART D: STAFFING

Section 407.130 Qualifications for Child Care Director

- a) Day care centers licensed for more than 50 children shall employ a full-time child care director to be on site in a non-teaching capacity. The director may be on site in a teaching capacity at the following times:
- 1) During the first hour and last hour of a program that operates 10 or more hours per day; or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) When attendance falls below 50 children.
- b) Day care centers licensed for 50 or fewer children, or half-day programs with children attending no more than 3 consecutive hours per day regardless of capacity, may employ a child care director who also serves as a member of the child care staff.
 - 1) When the director serves in both capacities, he or she must meet the qualifications of both the director position and the teaching position.
 - 2) When the director attends to non-teaching responsibilities, his or her group must be supervised by a person qualified to be in charge of the group.
 - c) The child care director shall be at least 21 years of age.
 - d) The child care director shall have a high school diploma or equivalency certificate (GED).
 - e) In addition to meeting the requirements of Section 407.100, the child care director of a facility serving the same number of groups of pre-school and school-age children or more groups of pre-school children than groups of school-age children shall have achieved:
 - 1) Sixty semester or 90 quarter hours of credit from an accredited college or university with 18 semester or 27 quarter hours in courses related directly to child care and/or child development from birth to age 6; ~~or~~
 - 2) Two years (3120 clock hours) of child development experience in a nursery school, kindergarten, or licensed day care center, 30 semester or 45 quarter hours of college credits with 10 semester or 15 quarter hours in courses related directly to child care and/or child development, and proof of enrollment in an accredited college or university until 2 years of college credit have been achieved. A total of 18 semester or 27 quarter hours in courses related directly to child care and/or child development is required to be obtained within the total 2 years of college credits; or
 - 3) Completion of a credentialing program approved in accordance with Appendix G of this Part, completion of 12 semester or 18 quarter hours in courses related to child care and/or child development from birth to age 6

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

at an accredited college or university, and 2 years (3120 clock hours) child development experience in a nursery school, kindergarten or licensed day care center.

- f) In addition to meeting the requirements of Section 407.100, the child care director of a facility serving more groups of school-age children than groups of pre-school children shall have achieved:
- 1) Sixty semester or 90 quarter hours of credit from an accredited college or university with 18 semester or 27 quarter hours in courses related to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, including courses related to school-age children; or
 - 2) Two years (3120 clock hours) of child development experience in a recreational program, kindergarten, or licensed day care center serving school-age children, or license exempt school-age child care program operated by a public or private school, 30 semester or 45 quarter hours of college credits with 10 semester or 15 quarter hours in courses related directly to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, and proof of enrollment in an accredited college or university until 2 years of college credit have been achieved. A total of 18 semester or 27 quarter hours in courses related directly to child care and/or child development, elementary education, physical education, recreation, camping or other related fields, including courses related to school-age children, is required to be obtained within the total 2 years of college credits.
- g) Completion of a training program accredited by the American Montessori Society or Association Montessori International may be substituted for the courses directly related to child care and/or child development required by this Section. Persons holding a Montessori pre-primary credential may serve as director to children through age 6. Persons holding a Montessori primary or elementary credential may serve as director to children 6 years of age or older.
- h) Persons who were deemed qualified to serve as a child care director prior to January 1, 1985, continue to be deemed qualified for their position. Directors deemed qualified must still have current Mandated Reporter Training, SIDS, SUID, SBS and other training certificates as required in this Part.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) When a program serves only school-age children and meets the criteria of Section 407.90(c), qualifications for the school-age director responsible for multiple sites and the site coordinators shall be as follows:
 - 1) The school-age director and each site coordinator shall be at least 21 years of age.
 - 2) The school-age director shall meet both of the following requirements for education and experience:
 - A) Sixty semester or 90 quarter hours of credit from an accredited college or university, with 18 semester or 27 quarter hours in courses related to school-age child care, child development, elementary education, physical education, recreation, camping or other related fields; and
 - B) At least 1560 clock hours of child development experience in a recreational program or a licensed day care center serving school-age children.
 - 3) The school-age site coordinators must meet one of the following qualifications:
 - A) Thirty semester or 45 quarter hours of credit from an accredited college or university with 12 semester or 18 quarter hours related to school-age child care, child development, elementary education, physical education, recreation, camping or other related fields and 750 clock hours of experience in a recreational program or a licensed day care center serving school-age children or in a license exempt school-age child care program operated by a public or private school; or
 - B) 1560 clock hours of experience in a recreational program or licensed day care center serving school-age children or license exempt school-age child care program operated by a public or private school and either 6 semester hours or 9 quarter hours of credit from an accredited college or university related to school-age child care, child development, elementary education, physical

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

education, recreation, camping or other related fields.

- j) A staff member who meets the qualifications for a day care center director shall be designated to assume decision-making responsibility whenever the child care director is off site. A record of employees who meet the qualifications for director and who have been designated to assume decision-making responsibility in the director's absence shall be kept at the site. All day care staff shall be informed of the designated director at each occurrence. The person designated as alternate director may be in the classroom and counted in the staff/child ratio under the following circumstances:
- 1) When the center meets the criteria of subsection (b); ~~or~~
 - 2) During the first hour and last hour of a program that operates 10 or more hours per day; or
 - 3) When attendance falls below 50 children.
- k) The child care director must successfully complete a basic training course of 6 or more clock hours on providing care to children with disabilities that has been approved by the Department. The day care center shall have on file a certificate attesting to the training of the child care director.
- 1) Persons employed as a child care director shall complete this training within 36 months from date appointed as child care director.
 - 2) A child care director who has completed training prior to employment may have that training approved as meeting the provisions of this subsection (k). A certificate of training completion and a description of the course content must be submitted to the Department for approval.
 - 3) A child care director who obtains approved training and moves from one day care facility to another shall not be required to take another training course as long as the child care director can provide documentation in the form of a certificate that the training was completed.
 - 4) A training program approved by the Department in providing care for children with disabilities must include the following components:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- A) Introduction to Inclusive Child Care;
 - B) Understanding Child Development in Relation to Disabilities;
 - C) Building Relationships With Families;
 - D) Preparing for and Including Young Children in the Child Care Setting; and
 - E) Community Services for Young Children With Disabilities (including Early Intervention Services).
- 1) By July 1, 2017, the following education requirements for licensed day care center staff shall be met.
- 1) All new child care directors hired on or after July 1, 2017 shall have a minimum of an associate degree in child development or early childhood education, or the equivalent (defined as 64 semester hours in any discipline with a minimum of 21 semester hours of college credit in child development, early childhood education or early childhood special education) and either a Gateways to Opportunity Level I Illinois Director Credential (see 89 Ill. Adm. Code 50.720(b) and <http://www.ilgateways.com/en/illinois-director-credential-idc>) or 3 semester hours of college credit or 3 points of credential approved training in administration, leadership or management.
 - 2) Effective July 1, 2017, licensed child care centers must have an employee on site at all times with a minimum of an associate degree in child development or early childhood education or the equivalent (defined as 64 semester hours in any discipline with a minimum of 21 semester hours of college credit in child development, early childhood education or early childhood special education).
- m) Directors shall submit to their local licensing office a certificate of completion of lead safety training consisting of instruction in the following topics:
- 1) Mitigation plan strategies for test results of 2.01 ppb or above; and
 - 2) Impact of lead exposure.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 43 Ill. Reg. 224, effective January 1, 2019)

SUBPART F: STRUCTURE AND SAFETY

Section 407.250 Enrollment and Discharge Procedures

- a) The day care center shall enroll only those children eligible under the center's written enrollment policies. The center shall not use eligibility criteria that screen out children with disabilities, and shall make reasonable modifications in policies, practices and procedures to accommodate children with disabilities.
- b) Prior to enrollment, the parents or guardian shall be provided information about the program and given an opportunity to observe during the hours of operation.
- c) The day care center shall provide publicly available written statements that include the following and that are given to parents at the time their child is enrolled in the facility:
 - 1) Names, business address and telephone number of those persons legally responsible for the program and of those persons having immediate responsibility for the daily conduct of the program;
 - 2) Statement of services, purposes and goals;
 - 3) Description of the daily program;
 - 4) Fees and plan for payment;
 - 5) Policies regarding delinquent fees;
 - 6) Types of insurance coverage for children;
 - 7) Admission, enrollment, and discharge policies and procedures:
 - A) Hours of operation;
 - B) Information regarding part-time enrollment, if applicable;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- C) Holiday and vacation schedules;
 - 8) Arrangements for arrival and departure of children (time, location, transportation);
 - 9) Provision for emergency medical care, treatment of illness and accidents, which includes:
 - A) A plan to obtain prompt services of physician and hospitalization, if needed or a plan from the parent to access the services of a certified practitioner for a child exempt from medical care on religious grounds; and
 - B) A plan for immediately notifying the parent or guardian of any illness, accident or injury to the child;
 - 10) Formal religious observance or instruction, if any;
 - 11) Visits, trips, or excursions off the premises and the transportation used for these visits, trips, or excursions;
 - 12) Procedures concerning personal belongings brought to the center;
 - 13) Policy regarding release of personal information on the child or family;
 - 14) Guidance and discipline policy; ~~and~~
 - 15) Planned means of communication between the center and the parents; ~~and-~~
 - 16) Day care centers subject to testing of water for the presence of lead shall inform parents where in the facility the results of all water testing (at, above or below 2.01 ppb) are prominently posted and any mitigation actions that are in place.
- d) The facility shall distribute a summary of the licensing standards, provided by the Department, to the parents or guardian of each child at the time that the child is accepted for care in the facility. In addition, consumer information materials provided by the Department including, but not limited to, information on reporting and prevention of child abuse and neglect and preventing and reporting

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

communicable disease shall be distributed to the parents or guardian or each child cared for when designated for such distribution by the Department.

- e) The day care center may ask parents to share professional evaluations during the enrollment process when necessary to determine how best to meet the needs of the child.
- f) Parents shall be informed of and agree to any variations in regular procedures undertaken to meet the specific needs of their child.
- g) The day care center shall give parents adequate information about the program so parents can make an informed decision regarding the enrollment of their child. At the time of enrollment, the parents shall receive a copy of all written policy statements required by Section 407.250(c).
- h) Staff shall be informed of the child's enrollment before a child's first day of attendance and given the information necessary to make the child's initial adjustment as comfortable as possible.
- i) The day care center shall maintain a record on all children enrolled in the center to help staff plan effectively to meet each child's individual needs.
 - 1) A written enrollment application shall be on file for each child with the signatures of the enrolling parents. The application shall contain the following information:
 - A) Child's full name, date of birth and gender.
 - B) Date of enrollment and discharge.
 - C) Scheduled days and hours of care.
 - D) Name, home address and telephone number of parents.
 - E) Work hours of parents and name, address and telephone number of place of employment.
 - F) Name, address and telephone number of the child's physician or certified Christian Science practitioner, if applicable.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- G) Name, address and telephone number of all persons authorized to pick up the child, which includes both:
 - i) A primary list of persons authorized to pick up the child regularly; and
 - ii) A contingency list of persons authorized to pick up the child occasionally, including conditions for releasing the child to such persons.
 - H) Name, address and telephone number (day and evening) of persons to be contacted in an emergency if the parents cannot be reached.
 - I) Information regarding the child's individual development, habits, medical needs and other factors critical to the child's well-being and ability to participate in the program.
- 2) Written agreements and consents for the following shall be on file for each child:
- A) Visits, trips or excursions off the premises, including transportation arrangements, when appropriate.
 - B) Health care and treatment, including emergency first-aid.
 - C) Child's involvement in research, if applicable.
 - D) Formal religious instruction or observances, if applicable.
 - E) Use of photographs, film or video of children.
 - F) School attendance away from the center, if applicable, including the time the child shall be released and the means of transportation the child shall use.
 - G) Participation in athletic activities such as swimming or gymnastics, if applicable.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- H) Use of facility transportation, if applicable.
- 3) Reports of health examinations, unless waived in accordance with Section 407.310(a)(7).
- 4) The day care center shall:
- A) Provide a written notice to the parent or guardian of any child to be *enrolled for the first time that within 30 days* of enrollment the parent or guardian must *provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child*. The center shall make a duplicate and return the original certified copy to the parent or guardian no later than the end of the next business day after receipt. If a certified copy of the birth certificate is not available, the parent or guardian must submit *a passport, visa or other governmental documentation as proof of the child's identity and age and an affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate*. The center's notice to parent or guardian shall also indicate that the center is required by law to notify the Illinois State Police or local law enforcement agency if the parent or guardian fails to submit proof of the child's identity within the 30 day time frame;
 - B) Notify the Illinois State Police or local law enforcement agency of the parent's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The center shall also *notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law, advising the parent or guardian that he or she has 10 additional days to comply* by submitting the required documentation;
 - C) *Report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content;*
 - D) *Flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

concerning flagged records or knowledge as to the whereabouts of any missing child. [325 ILCS 50/5]

- j) Any child who, after attempts have been made to meet the child's individual needs, demonstrates inability to benefit from the type of care offered by the facility, or whose presence is detrimental to the group, shall be discharged from the facility.
- k) In all instances, when a facility decides that it is in the best interest of the child to terminate enrollment, the child's and parents' needs shall be considered by planning with the parents to meet the child's needs when he or she leaves the facility, including referrals to other agencies or facilities.

(Source: Amended at 43 Ill. Reg. 224, effective January 1, 2019)

SUBPART H: FACILITY AND EQUIPMENT

Section 407.370 Physical Plant/Indoor Space

Partially exempt programs are exempt from these standards.

- a) Buildings used for day care center programs shall be in good shape and operable and must comply with all applicable fire safety standards.
 - 1) The building housing a center shall be approved prior to occupancy and license renewal by the Illinois Department of Public Health and the Office of the State Fire Marshal or local agencies authorized by those State agencies to conduct inspections on their behalf. Otherwise, inspection and approval shall be in accordance with the regulations of the proper health and fire authorities.
 - 2) Day care centers that provide day care only for school-age children in a building currently being used as a pre-primary, primary, or secondary school do not need to obtain the fire clearance in subsection (a)(1) if the day care center provides written documentation that a fire safety clearance has been received from the responsible party of the Illinois State Board of Education and/or the Regional School Superintendent and that all exit doors for the school remain unlocked. An acceptable fire safety clearance from the Illinois State Board of Education must be in writing and must

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

indicate that the school complies with the applicable fire safety regulations adopted by the Illinois State Board of Education (23 Ill. Adm. Code 180).

- b) The building or portion of the building to which children from the center have access shall be used only for a program of child care during the hours that the center is in operation. The space used for child care may be shared by other groups or persons outside of the hours of operation.
- c) Infants and toddlers shall be housed and cared for at ground level unless otherwise approved through the exception process below. Travel distance between any point in a room used for infants and toddlers and an exit discharging directly outside shall not exceed 150 feet. Only a fire inspector from the Office of the State Fire Marshal or the Chicago Fire Department's Fire Prevention Bureau may grant an exception to the requirement that infants and toddlers be housed and cared for at ground level.
- d) There shall be sufficient indoor space to conduct the program.
 - 1) There shall be a minimum of 35 square feet of activity area per child in centers for children 2 years of age and older. This space is exclusive of exit passages and fire escapes, which must be clear. This space is also exclusive of administrative space, storage areas, bathrooms, kitchen, space required for equipment that is not used for direct activities with children, and gymnasiums or other areas used exclusively for large muscle activity or active sports.
 - 2) The amount of space required for infants and toddlers shall be determined according to the use of the space for sleep and play purposes.
 - A) Regardless of whether infants play and sleep in the same room or in 2 separate rooms, there shall be a minimum of 25 square feet of play space per child plus a minimum of 30 square feet of sleeping space per child, with at least 2 feet between each crib and the next crib.
 - B) When toddlers play and sleep in the same room using cots that can be stacked, there shall be 35 square feet of space per child. When children are in their cots, there must be a minimum of 2 feet between the cots.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- C) When toddlers play and sleep in the same room using cribs, there shall be a minimum of 55 square feet per child. When children are in their cribs, there must be a minimum of 2 feet between the cribs.
 - D) When toddlers play and sleep in separate rooms, there shall be minimum of 35 square feet of play space per child and a minimum of 30 square feet of sleeping space per child, with at least 2 feet between each cot or crib.
- 3) Storage space shall be provided for cots, bedding, and other equipment. Cots and cribs shall not be used for storage, including pillows and blankets, except when cots are stacked between uses.
 - 4) One room, no matter how large, shall accommodate only one group, except that room dividers or program equipment at least 3'6" in height may be used to define and separate the space for each group of children up to age 5. Gymnasiums and similar sized areas may accommodate 2 groups, without dividers, when used for large muscle activity and active sports.
 - 5) All rooms or spaces accommodating more than one group shall be provided with an acoustical ceiling or its equivalent in carpeting or wall covering. If carpeting is used to control noise, it shall not be required in water play, painting, and similar areas.
- e) The building and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
 - 1) Adjustable window shades, drapes, or blinds shall be provided in all rooms where children rest or nap or in rooms that receive direct sunlight while children are present.
 - A) All new and replacement window coverings shall be cordless (free of external cords in their operation).
 - B) All window coverings installed on or before August 15, 2014 may remain in place until replaced due to normal wear. Replacement window coverings shall be in compliance with ANSI/WCMA

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

100.1-2009.

- C) Strings and cords (as found on some window coverings) capable of forming a loop greater than 7¼" in diameter shall be inaccessible to children.
- 2) The floors and floor coverings shall be washable and free from drafts, splinters, and dampness.
- 3) Toxic or lead paints or finishes shall not be used on walls, window sills, beds, toys or any other equipment, materials or furnishings that may be used by children or within their reach. Peeling or damaged paint or plaster shall be repaired promptly to protect children from possible hazards.
- A) Lead paint removal shall be in accordance with Illinois Department of Public Health rules (77 Ill. Adm. Code 845.85(b)).
- B) Asbestos shall only be removed by trained and licensed professionals in accordance with the Asbestos Abatement Act [105 ILCS 105].
- 4) *Effective January 1, 2013, the center shall be tested for radon at least once every 3 years by a licensed Radon Measurement Professional pursuant to rules established by the Illinois Emergency Management Agency (32 Ill. Adm. Code 422). The report of the most current radon measurement shall be posted next to the center's license, along with the following statement: Every parent or guardian is notified that this facility has performed radon measurements to ensure the health and safety of the occupants. The Illinois Emergency Management Agency (IEMA) recommends that all residential homes be tested and that corrective actions be taken at levels equal to or greater than 4.0 pCi/L. Radon is a Class A human carcinogen, the leading cause of lung cancer in non-smokers, and the second leading cause of lung cancer overall. For additional information about this facility contact the licensee and for additional information regarding radon contact the IEMA Radon Program at 800-325-1245 or on the Internet at www.radon.illinois.gov. The center shall provide copies of the report to parents or guardians of children attending the center, upon request. [225 ILCS 10/5.8]*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Any thermal hazards (radiators, hot water pipes, steam pipes, heaters) in the space occupied by children shall be out of the reach of children or be separated from the space by partitions, screens, or other means.
- 6) Sharp scissors, plastic bags, knives, cigarettes, matches, lighters, flammable liquids, drugs, sharp instruments, power tools, cleaning supplies and any other such items that might be harmful to children shall be kept in areas inaccessible to children. Hazardous items for infants and toddlers also include coins, balloons, safety pins, marbles, Styrofoam[®] and similar products, and sponge, rubber or soft plastic toys.
- 7) All cleaning compounds, pesticides, fertilizers and other potentially hazardous or explosive compounds or agents shall be stored in original containers with legible labels in a locked area that is inaccessible to children.
- 8) A draft-free temperature of 65° F to 75° F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68° F to 82° F shall be maintained during the summer or air-conditioning months. When the temperature in the center exceeds 78° F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 9) If electric fans are used to control temperature, measures shall be taken to assure the safety of the children in the group:
 - A) Stationary fans shall be mounted on the walls (at least 5 feet above the floor) or on the ceiling.
 - B) When portable fans on stands are used, they shall be anchored to prevent tipping.
 - C) All portable fans shall have blade guard openings of less than ½ inch and shall be inaccessible to children.
- 10) Exits shall be kept unlocked and clear of equipment and debris at all times.
- 11) Electrical outlets within the reach of children shall be covered.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 12) The program shall be modified, as needed, when there are adverse conditions caused by weather, heating or cooling difficulties or other problems. When the conditions exceed a 24-hour period, the Department shall be notified regarding program modifications.
- f) Drills for possible emergency situations including fire and tornado shall be conducted.
 - 1) A floor plan shall be posted in every room indicating the following:
 - A) The building areas that will provide the most structural stability in case of tornado; and
 - B) The primary and secondary exit routes in case of fire.
 - 2) Drills shall be conducted once a month for fire and twice a year (seasonally) for tornado.
 - 3) Records shall be maintained of the dates and times that fire and tornado drills are conducted.
- g) All areas of the center shall receive sufficient light.
 - 1) Areas for reading, painting, puzzles or other close work shall be illuminated to at least 50 to 100 foot candles on the work surface.
 - 2) Areas for general play, such as housekeeping and block building, shall be illuminated to at least 30 to 50 foot candles on the surface.
 - 3) Stairways, walkways, landings, driveways and entrances shall be illuminated to at least 20 foot candles on the surface.
- h) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of a public water supply, the center shall supply written records of current test results indicating that the water supply is safe for drinking in accordance with the standards specified for non-community water supplies in the Drinking Water Systems Code (77 Ill. Adm. Code 900). New test results must be provided prior to relicensing. If nitrate content exceeds 10 parts per million, bottled water must be used for infants.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) Any day care center currently licensed as of January 1, 2019 shall submit a survey provided by its day care licensing office that includes the construction date of the building in which the center operates. The construction date for new day care center applicants is captured on the CFS 597 form.
- j) Any day care center serving children under 6 years of age housed in a building constructed on or before January 1, 2000 shall be subject to lead in water testing by an IEPA laboratory or an IEPA-certified laboratory. A current list of certified laboratories can be obtained by contacting the Day Care Information Line at 1-877-746-0829, or can be accessed online through <https://sunshine.dcf.illinois.gov/Content/Licensing/LeadTesting.aspx>. Water sampling guidelines followed by certified laboratories may also be accessed through this link. Test results and mitigation plans, when required, shall be submitted to the local licensing office within 120 days after notification of test results of 2.01 ppb or above.
- 1) All lead in water test results (at, above or below 2.01 ppb) shall be posted in the center in a visible location and submitted by the applicant or licensee directly to the local licensing office.
- 2) A mitigation plan shall be made available to parents and submitted to the local licensing office if test results indicate the presence of lead for each drinking water supply with a result of 2.01 ppb or above and shall specify:
- A) Interim measures the applicant/licensee will take to ensure a safe drinking water supply during mitigation;
- B) Mitigation plan start and planned completion dates;
- C) Retesting dates to include one test to occur no later than six months following the completion of a mitigation plan and a second test no later than one year from the completion of a mitigation plan;
- D) Each drinking water source that tested at 2.01 ppb or above and the planned mitigation activity for each source. Examples of acceptable mitigation strategies include, but are not limited to, installation of mechanical flushing devices, replacement of lead-based lines or fixtures, or reverse osmosis filters installed at

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

affected drinking water fixtures; and

- E) In extenuating circumstances in which mitigation cannot be readily undertaken (e.g., lead in the municipal water source), alternative external sources of water that tests below 2.01 ppb, such as bottled water with that test result, may be used subject to Department approval.
- 3) Following successful mitigation that results in two consecutive tests below 2.01 ppb, further testing is only required if there has been any change to the water profile of the building, including but not limited to replacement of the hot water heater, change in the water source, or change to, or replacement of, the water service lines.
- 4) The Department reserves the right to require testing upon suspicion of the day care center misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any center facility that fails to insure testing and reasonable mitigation action when necessary may be subject to enforcement action, up to and including revocation of, or refusal to renew, the license.
- k) There shall be no smoking or use of tobacco products in any form in the child care center or in the presence of children while on the playground or engaged in other activity away from the center.
- l) Major cleaning shall not be done while children are present.
- m) Basement or cellar windows used or intended to be used for ventilation, and all other openings to a basement or cellar, shall not permit the entry of rodents.
- n) Openings to the outside shall be protected against the entrance of flies or other flying insects by doors, windows, screens, or other approved means.
- o) Any extensive extermination of pest or rodents shall be conducted by a licensed pest control operator under the direct observation of a staff member to insure that residue is not left in areas accessible to children.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~pn~~) Pesticide Application

- 1) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present in the facility. Toys and other items mouthed or handled by the children must be removed from the area before pesticides are applied. Children must not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained at the facility.
- 2) Before a child is enrolled, the day care center shall provide a summary of its pest management plan and uses of pesticides to the child's parents or guardians. The center shall notify all parents or guardians before a pesticide application, or maintain a registry of parents or guardians who wish to receive written notification of when the facility will receive a pesticide application and send a written notification to them. Notification of the intended date of the application of the pesticide, which may be in the form of newsletters, bulletins, calendars, or other written communication methods presently used by the center, must be given at least 2, but not more than 30, days before the pesticide application. When economically feasible, the center must adopt an Integrated Pest Management (IPM) program as defined in Section 3.25 of the Structural Pest Control Act [225 ILCS 235/3.25], involving the cooperation between day care staff and pest control personnel or other specialists to use a variety of non-chemical methods as well as pesticides, when needed, to reduce pest infestations to acceptable levels and to minimize children's exposure to pesticides.
- 3) Prior notice of pesticide application is not required if the application is due to an immediate threat to health or property, in which case the pesticide must be immediately applied. Children shall not be present during the application and shall not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater. If such a situation arises, the appropriate day care center personnel must sign a statement describing the circumstances that gave

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

rise to the health threat and ensure that written notice is provided to parents or guardians as soon as practicable.

- 4) *Pesticides subject to notification requirements shall not include antimicrobial agents, such as disinfectants, sanitizers, or deodorizers, or insecticide baits and rodenticide baits* (Section 10.3 of the Structural Pest Control Act).

q) All garbage and refuse shall be collected daily and stored in a manner that will not permit the transmission of disease, create a nuisance or a fire hazard or provide harborage for insects, rodents or other pests.

- 1) An adequate number of covered, durable, water-tight, insect and rodent-proof garbage and refuse containers shall be provided for use.
- 2) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies shall be tightly covered and lined with plastic. Contents shall be covered immediately or removed for discarding.

r) The center shall be cleaned daily and kept in a sanitary condition at all times.

- 1) The center shall provide necessary cleaning and maintenance equipment.
- 2) Toys, table tops, furniture and other similar equipment used by children shall be washed and disinfected when soiled or contaminated with matter such as food, body secretions or excrement.
- 3) Cleaning equipment, cleaning agents, aerosol cans and other hazardous chemical substances shall be labeled and stored in a space designated solely for this purpose. These materials shall be stored in a locked place that is inaccessible to children.

s) Kitchen sinks used for food preparation shall not be used as hand-washing lavatories nor counted in the total number of hand-washing lavatories required.

t) There shall be means for communication in emergencies.

- 1) An operable non-coin telephone shall be on the premises, easily accessible

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

for use in an emergency and for other communications.

- 2) A list of emergency telephone numbers, such as the fire department, police department, poison control and emergency medical treatment, along with the full address of the day care center, shall be posted next to each telephone.
 - 3) In facilities where communication between groups is difficult due to the design of the day care center, operation in multiple buildings on the same site or on multiple floors, an intercom or a written plan for other effective means of communication between groups shall be provided.
 - 4) During hours of operation and at all times that children are present, there shall be a means for parents of enrolled children to have direct telephone contact with a center staff person.
- us) The center shall provide reasonable, private accommodations for breastfeeding mothers who may want to breastfeed during hours of operation, including a private area with an electrical outlet for mothers to pump their breast milk, and shall notify parents of these accommodations.

(Source: Amended at 43 Ill. Reg. 224, effective January 1, 2019)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 408
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
408.5	Amendment
408.10	Amendment
408.30	Amendment
408.45	Amendment
408.60	Amendment
- 4) Statutory Authority: 225 ILCS 10
- 5) Effective Date of Rules: January 1, 2019
- 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 rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 8372; May 25, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between the Proposal and Final Version:

The term "mitigation" is changed to read: means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

The definitions "mitigation plan" and "water source" were added to read:

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb."

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers."

408.30(i)(j) were changed to incorporate testing and mitigation plan requirements for applicants and current license holders to reduce redundancy in the Rule and clarify that mitigation actions are required for test results of 2.01 ppb or higher. These sections read:

Any group day care home currently licensed as of January 1, 2019 shall submit a survey provided by its day care licensing office that includes the construction date of the home. The construction date for new group day care home applicants is captured on the CFS 597-DCI form.

Any group day care home serving children under 6 years of age and housed in a building constructed on or before January 1, 2000 shall be subject to lead in water testing by an IEPA laboratory or an IEPA-certified laboratory. A current list of certified laboratories can be obtained by contacting the Day Care Information Line at 1-877-746-0829, or can be accessed online at <https://sunshine.dcf.illinois.gov/Content/Licensing/LeadTesting.aspx>. Water sampling guidelines followed by certified laboratories may also be accessed through this link. Test results and mitigation plans, when required, shall be submitted to the local licensing office within 120 days after notification of test results of 2.01 ppb or above.

All lead in water test results (at, above or below 2.01 ppb) shall be posted in the home in a visible location and submitted by the applicant or licensee directly to his or her local licensing office.

A mitigation plan shall be made available to parents and submitted to the local licensing office if test results indicate the presence of lead for each drinking water source with a result of 2.01 ppb or above and shall specify:

Interim measures the applicant/licensee will take to ensure a safe drinking water supply during mitigation;

Mitigation plan start and planned completion dates;

Retesting dates, to include one test to occur no later than six months following the completion of a mitigation plan and a second test no later than one year after the completion of a mitigation plan;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Each drinking water source that tested at 2.01 ppb or above and the planned mitigation activity for each source. Examples of acceptable mitigation strategies include, but are not limited to, installation of mechanical flushing devices, replacement of lead-based lines or fixtures, or reverse osmosis filters installed at affected drinking water fixtures; and

In extenuating circumstances in which mitigation cannot be readily undertaken (e.g., lead in the municipal water source), alternative external sources of water that tests below 2.01 ppb, such as bottled water with that test result, may be used subject to Department approval.

Following successful mitigation that results in two consecutive tests below 2.01 ppb, further testing is only required if there has been any change to the water profile of the building, including, but not limited to, replacement of the hot water heater, change in the water source, or change to, or replacement of, the water service lines."

408.30(i)(4) was changed to read:

The Department reserves the right to require testing upon suspicion of the group day care home misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any group day care home that fails to insure testing and reasonable mitigation actions when necessary may be subject to enforcement action, up to and including revocation of or refusal to renew the license

408.45(f)(3) has been changed to read:

Licenses shall submit to their local licensing office a certificate of completion of a lead safety training stating instruction in the following topics:

Mitigation Plan strategies for test results of more than 2.01 ppb or above; and

Impact of Lead Exposure.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking:

- These amendments implement PA 99-922 to ensure the testing of drinking water for lead in licensed day care facilities serving children birth to 6 years.
- Lead testing parameters have been established that lead levels of 2.01 ppb or higher result in required mitigation activities to ensure the lead level is lowered to 2.00 ppb or lower.
- Training requirements have been established to address mitigation strategies in child care facilities for the purpose of providing licensees with factual information that will inform their decision on mitigation if necessary and ensure a safe water supply for children served. Early childhood advocacy organizations have worked with the Department's Division of Licensing to develop this training.
- The Department worked in conjunction with IDPH and IEPA to establish water sampling resources for licensees, a network of certified laboratories to conduct testing.

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

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield IL 62701-1498

217/524-1983
TDD: 217/524-3715
e-mail: DCFS.Policy@illinois.gov

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section

408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application for License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
408.55	Substitutes
408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part

408.APPENDIX A Meal Pattern Chart for Children 0 to 12 Months of Age

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs
408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	Pre-Service and In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Safety Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2] and Section 5 of the Missing Children Records Act [325 ILCS 50/5].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 32 Ill. Reg. 9164, effective June 20, 2008; amended at 34 Ill. Reg. 18411, effective December 15, 2010; amended at 36 Ill. Reg. 4114, effective March 5, 2012; amended at 36 Ill. Reg. 13105, effective August 15, 2012; amended at 36 Ill. Reg. 13403, effective August 15, 2012; amended at 37 Ill. Reg. 19149, effective November 30, 2013; amended at 40 Ill. Reg. 10808, effective July 29, 2016; emergency amendment at 42 Ill. Reg. 8593, effective May 9, 2018, for a maximum of 150 days; emergency expired October 5, 2018; amended at 43 Ill. Reg. 265, effective January 1, 2019.

Section 408.5 Definitions

"Access to children" means an employee's job duties require that the employee be present in a licensed child care facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual or auditory supervision of facility staff with children receiving care in a licensed child care facility is subject to the background check requirements of this Part.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. Department of Education or a non-governmental recognition counterpart.

"Adult" means a person who is 18 years of age or older.

"Applicant" means a person living in the residence to be licensed who will be the primary caregiver in the group day care home.

"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type which complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])

"Assistant" or "child care assistant" means a person (whether a volunteer or an employee) who assists a licensed home caregiver in the operation of the group day care home.

"Attendance" means the total number of children under the age of 12 present at any one time.

"Authorized representative of the Department" means the licensing representative or any person acting on behalf of the Director of the Department.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI) for comparison to their criminal history records, as appropriate; and

a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Statewide Child Sex Offender Registry.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Basement" means the story below the street floor where occupants must traverse a full set of stairs, 8 or more risers, to access the street floor.

"CANTS" means the Child Abuse and Neglect Tracking System operated and maintained by the Department. This system is being replaced by the Statewide Automated Child Welfare Information System (SACWIS).

"Caregiver" means the individual directly responsible for child care.

"Children with special needs" means children who exhibit one or more of the following characteristics, confirmed by clinical evaluation:

Visual impairment: the child's visual impairment is such that development to full potential without special services cannot be achieved.

Hearing impairment: the child's residual hearing is not sufficient to enable him or her to understand the spoken word and to develop language, thus causing extreme deprivation in learning and communication, or a hearing loss is exhibited that prevents full awareness of environmental sounds and spoken language, limiting normal language acquisition and learning.

Physical or health impairment: the child exhibits a physical or health impairment that requires adaptation of the physical plant.

Speech and/or language impairment: the child exhibits deviations of speech and/or language processes that are outside the range of acceptable variation within a given environment and prevent full social development.

Learning disability: the child exhibits one or more deficits in the essential processes of perception, conceptualization, language, memory, attention, impulse control or motor function.

Behavioral disability: the child exhibits an affective disability and/or maladaptive behavior that significantly interferes with learning and/or social functioning.

Mental impairment: the child's intellectual development, mental capacity, and/or adaptive behavior are markedly delayed. Such mental impairment

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

may be mild, moderate, severe or profound.

"Conviction" means a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense, rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (Section 2-5 of the Criminal Code of 1961 [720 ILCS 5/2-5])

"Corporal punishment" means hitting, spanking, swatting, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain.

"Cot" means a comfortable, safe and child-sized alternative bed made of resilient, fire retardant, sanitizable fabric that is on legs or otherwise above the floor and can be stored to allow for air flow.

"Department" means the Illinois Department of Children and Family Services. (Section 2.18 of the Child Care Act of 1969 [225 ILCS 10/2.18])

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents (e.g., heat). In the child care environment, a solution of ¼ cup household liquid chlorine bleach added to one gallon of water (or one tablespoon bleach to one quart of water) and prepared fresh daily is an effective disinfectant for environmental surfaces and other objects. A weaker solution of 1 tablespoon bleach to 1 gallon of cool water is effective for use on toys, eating utensils, etc. Commercial products may also be used.

"Extended capacity" means an addition of 4 school age children who may be accepted in accordance with 408.65(c). This allows the maximum capacity in a group day care home to reach 16.

"Family home" or "family residence" means the location or portion of a location where the applicant and his or her family reside, and may include basements and attics. It does not include other structures that are separate from the home but are considered part of the overall premises, such as adjacent apartments, unattached basements in multi-unit buildings, unattached garages, and other unattached

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

buildings.

"Firearm" means any device, by whatever name known, that is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding, however:

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels a single globular projectile not exceeding .18 inch in diameter or that has a maximum muzzle velocity of less than 700 feet per second;

any pneumatic gun, spring gun, paint ball gun, or BB gun that expels breakable paint balls containing washable marking colors;

any device used exclusively for signalling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission;

any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition; and

an antique firearm (other than a machine gun) that, although designed as a weapon, the Department of State Police finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. [430 ILCS 65/1.1]

"Gateways to Opportunity Registry" means a program administered by the Department of Human Services to track and maintain education and training credentials of primary caregivers and assistants that allows them to establish a profile in the registry of their educational and training development.

"Ground level" means that a child can step directly from the exit onto the ground, a sidewalk, a patio, or any other surface that is not above or below the ground.

"Group day care home" means a family home which receives more than 3 up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. (Section 2.20 of the Child Care Act of 1969 [225 ILCS 10/2.20])

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Guardian" means the guardian of the person of a minor. (Section 2.03 of the Child Care Act of 1969 [225 ILCS 10/2.03])

"Infant" means a child through 12 months of age.

"Initial background check" means fingerprints have been obtained for a criminal history check, and the individual has cleared a check of the Statewide Automated Child Welfare Information System (SACWIS) and the Illinois Sex Offender Registry.

"License" means a document issued by the Department that authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant", for purposes of background checks, means the operator or persons with direct responsibility for daily operation of the facility to be licensed. (Section 4.4 of the Child Care Act of 1969 [225 ILCS 10/4.4])

"License study" means the review of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Licensed capacity" means the number of children the Department has determined the group day care home can care for at any one time, in addition to any children living in the home who are under the age of 12 years. Children age 12 and over on the premises are not considered in determining licensed capacity.

"Licensing representative" means a person authorized by the Department under Section 5 of the Child Care Act of 1969 to examine facilities for licensure.

"Licensing year", often called the anniversary year, means the period of time from the date a group day care home license is issued until the same date of the following year.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Mitigation" means those activities or processes undertaken to reduce the level of lead in water below 2.01 ppb (parts per billion).

"Mitigation plan" means a written document prepared by a license applicant or licensee that identifies drinking water sources that have tested at or above 2.01 ppb for lead and the strategies and interim measures the applicant/licensee will take to reduce the lead level to below 2.01 ppb.

"Parents", as used in this Part, means those persons assuming legal responsibility for care and protection of the child on a 24-hour basis; includes guardian or legal custodian.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 6-month period to allow the individuals to become eligible for a license.

"Persons subject to background checks" means:

the operators of the child care facility;

all current and conditional employees of the child care facility;

any person who is used to replace or supplement staff; and

any person who has access to children, as defined in this Section.

If the child care facility operates in a family home, the license applicants and all members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the child care facility is in operation.

"Physician" means a person licensed to practice medicine in the State of Illinois or a contiguous state.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Premises" means the location of the group day care home wherein the family resides and includes the attached yard, garage, basement and any other outbuildings.

"Preschool age" means children under 5 years of age and children 5 years old who do not attend full day kindergarten.

"Program" means all activities provided for the children during their hours of attendance in the group day care home.

"Protected exit from a basement" means an exit that is separated from the remainder of the group day care home by barriers (such as walls, floors, or solid doors) providing one-hour fire resistance. The separation must be designed to limit the spread of fire and restrict the movement of smoke.

"Resource personnel" means physicians, nurses, psychologists, social workers, speech therapists, physical and occupational therapists, educators and other technical and professional persons whose expertise is utilized in providing specialized services to children with special needs.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"School age" means children 6 to 12 years of age and 5 year olds who are in full-day kindergarten.

"Special use areas" means areas of the home that may not be included in the measurement of the area used for child care. Special use areas include, but are not limited to, laundry rooms, furnace rooms, bathrooms, hazardous areas, and areas off-limits to children.

"Story" means that level of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

"Street floor" means a story or floor level accessible from the street or from outside a building at ground level, with the floor level at the main entrance located not more than 4 risers above or below the ground level and arranged and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

utilized to qualify as the main floor.

"Substantiated violation" means that the licensing representative has determined, during a licensing complaint investigation or a monitoring or renewal visit, that the licensee has violated a licensing standard of this Part or the Child Care Act.

"Swimming pool" means any natural or artificial basin of water intended for public swimming or recreational bathing which exceeds 2'6" in depth as specified in the Illinois Swimming Pool and Bathing Beach Act and Code (77 Ill. Adm. Code 820). The term includes bathing beaches and pools at private clubs, health clubs, or private residences when used for children enrolled in a child care facility.

"Wading pool" means any natural or artificial basin of water less than 2'6" in depth that is intended for recreational bathing, water play or similar activity. The term includes recessed areas less than 2'6" in depth in swimming pools that are designated primarily for children.

"Water profile" means a building's water heater, source of water and water supply lines.

"Water source" means any faucet used to obtain water for drinking or food preparation for day care operations. Water sources include, but are not limited to, sinks, bathtubs, hoses, drinking fountains, bubblers, and refrigerator or freezer water or ice dispensers.

(Source: Amended at 43 Ill. Reg. 265, effective January 1, 2019)

Section 408.10 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services on forms prescribed and provided by the Department.
- b) Contents of Application
 - 1) A complete application shall include:
 - A) a completed, signed and dated Application for Home License;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) a list of persons who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over;
- C) completed, signed and dated authorizations to conduct the background check for the applicant, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
- D) a completed, signed and dated Child Support Certification form;
- E) documentation that the applicant meets the qualifications for a caregiver in Section 408.45(e);
- F) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care;
- G) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic, construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs;
- H) a copy of high school diploma, equivalent certificate, or degree from a regionally accredited institution of higher education or vocational institution;
- I) proof of membership in the Gateways to Opportunity Registry by the primary caregiver and assistants in the group day care home with all educational credentials and pre-service training entered into the Registry; ~~and~~
- J) *for an initial application effective January 1, 2014 or later, proof that the home has been tested within the last 3 years for radon, as established by rules of the Illinois Emergency Management Agency (32 Ill. Adm. Code 422) [225 ILCS 10/5.8]; ~~and~~.*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- K) [Lead testing results and mitigation plans when required by Section 408.30\(i\) and \(j\).](#)
- 2) The applicants shall have completed, not more than one year prior to the application date, at least 15 hours of pre-service training listed in Appendix G, which shall include the following topics for applicants and assistants who will care for infants:
- A) Sudden Infant Death Syndrome (SIDS);
 - B) Sudden Unexpected Infant Death (SUID);
 - C) Safe sleep recommendations from the American Academy of Pediatrics;
 - D) Shaken Baby Syndrome; and
 - E) Department approved Mandated Reporter Training for all licensees and assistants regardless of the age of children in care.
- 3) [Applicants shall submit with their initial application a certificate of completion of lead safety training consisting of instruction in the following topics:](#)
- A) [Mitigation plans for test results of 2.01 ppb or above; and](#)
 - B) [Impact of lead exposure.](#)
- c) Fire Safety Inspection
- 1) For initial applications of group day care homes in multi-housing units, or single family dwellings in which care will be provided on other than ground level, the Department shall request a fire safety inspection from the Office of the State Fire Marshal (OSFM). OSFM shall submit its written recommendation to the supervising agency of the group day care home and to the applicant;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) The fire safety inspection on single floor homes at ground level with no unusual or complex code considerations shall be completed following the list of items for fire safety inspection in Appendix I by a licensing representative trained by OSFM to conduct that fire prevention inspection;
 - 3) Prior to Department issuance of a permit or a license, the group day care home shall have written approval by OSFM or staff trained by OSFM, indicating the home meets fire safety requirements.
- d) Licensed group day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- e) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the Department shall conduct a license study to determine if the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. A license may not be recommended without the receipt of at least three positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- f) New Applications
- 1) A new application shall be filed when any of the following occurs:
 - A) When an applicant or licensee seeks to reapply for a license after it has been withdrawn, surrendered or denied and the applicant or licensee seeks to reapply;
 - B) When there is a failure to submit a completed application within 14 days after a change of residence or location of the group day care home;
 - C) When 12 months have elapsed and the applicant seeks to reapply for a license after:
 - i) the Department has revoked or refused to renew a license;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ii) the previous license has been surrendered with cause; or
 - iii) The Department has refused to issue a full license to a permit holder.
- 2) For the application to be considered timely and sufficient, a new application shall be completed, signed by the licensee and submitted to the supervising agency within 30 days after the following changes:
- A) When there is a change in the name of the licensee, the supervising agency or the legal status from a social security number to Federal Employer Identification Number (FEIN); or
 - B) When there is a change in the status of joint licensees, such as separation, divorce or death.

(Source: Amended at 43 Ill. Reg. 265, effective January 1, 2019)

Section 408.30 General Requirements for Group Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222 or 1-800-942-5969), thermometer, sterile gauze pads, adhesive tape, tweezers, first aid cream and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) All electrical outlets that are in areas used by the day care children shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- A) A smoke detector in operating condition shall be within each room where day care children nap or sleep. The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling. In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.
- B) In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit. For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15 percent of the replacement cost of the group day care home. For homes that did not have wired installation of smoke detectors in each room prior to December 15, 2011, the Department may allow the installation of a battery-operated smoke detector in each room where children nap or sleep and deem the home to be in compliance.
- C) Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])
- D) For homes constructed after December 15, 2011, or that underwent substantial remodeling of structure or wiring systems after December 15, 2011, the smoke detectors shall be permanently wired into the structure's AC power line and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Carbon Monoxide Detector
 - A) A home that has an attached garage and/or relies *on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition within 15 feet of rooms where children nap or sleep.*
 - B) *The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with subsection (a)(4) and this subsection (a)(5). [430 ILCS 135/10]*
- 6) The home and indoor space shall be maintained in good repair and shall provide a safe, comfortable environment for the children.
- 7) A draft-free temperature of 65°F to 75°F shall be maintained during the winter months or heating season. For infants and toddlers, a temperature of 68°F to 82°F shall be maintained during the summer or air-conditioning months. When the temperature in the home exceeds 78°F, measures shall be taken to cool the children. Temperatures shall be measured at least 3 feet above the floor.
- 8) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a group day care home during the hours that child care is provided.
- 9) A facility in which a wood-burning stove or fireplace has been installed and that is used during the hours that child care is provided, shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 10) In one and 2 family dwellings, children under 30 months of age shall be housed and cared for on the second floor or below. In other residential buildings, children under 30 months of age shall be housed and cared for only in areas in which OSFM states, in writing, that the combination of remote exits, fire detection, fire suppression, and/or automatic sprinkler systems render the residence safe for the care of infants and toddlers.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 11) No area accessible only by a ladder or folding stairs or through a trap door shall be used for sleeping or napping.
- 12) When the basement area may be used for child care, 2 exits shall be provided.
 - A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
 - B) A second exit may be a window.
 - i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
 - ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
 - iii) When the bottom of the window opening used as a second exit is more than 24 inches from the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
 - C) If the basement area does not meet these existing requirements, the basement may be used for child care only with the prior written approval of OSFM.
- 13) All walls and surfaces shall be maintained free from lead paint and chipped or peeling paint.
- 14) Walls of rooms that children use shall be free of carpeting, fabric or plastic products. Inflammable or combustible artwork attached to the walls shall not exceed 20% of any wall area.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 15) Furniture and equipment shall be kept in safe repair.
 - 16) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam (trademark) and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
 - 17) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
 - 18) An operable telephone shall be available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222 or 1-800-942-5969) and other emergency numbers shall be posted in an area that is readily available in an emergency.
 - 19) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
 - 20) Effective January 1, 2013, the home shall be tested for radon at least once every 3 years. The most current radon measurements shall be posted next to the license in the home, on a form provided by the Department containing the required informative statement from Section 5.8(d) of the Child Act of 1969 [225 ILCS 10].
- b) Escape routes from the group day care home shall be designed and maintained for swift and safe exiting in the event of an emergency.
- 1) All corridors and escape routes from the group day care home shall be kept clear of obstructions.
 - 2) Dead-end paths or corridors within the group day care home shall be a maximum of 20 feet in length.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) All escape routes from the group day care home shall have operable lighting. The lighting shall be activated during any hours of operation when natural lighting is reduced to a level that prohibits visibility within the escape route.
 - 4) Bathroom doors in areas accessible to day care children shall allow staff to open the door from the outside of the bathroom if necessary.
 - 5) All closet doors shall be able to be opened from inside of the closet without the use of a key.
 - 6) There shall be no more than 2 releasing devices (door knobs, hand-operated deadbolts, thumb-turn locks, etc.) on any exit door or exit window.
 - 7) Exit doors and exit windows shall be operable without the use of a key, a tool or special knowledge to open the door from the inside and exit to the outside.
 - 8) Exit doors and exit windows shall be kept clear of equipment and debris at all times.
 - 9) The licensee shall hold monthly fire safety inspections of the group day care home.
 - 10) The licensee or staff in the home shall inspect the group day care home daily, prior to arrival of children, ensuring that escape routes are clear and that exit doors and exit windows are operable.
 - 11) A log of these monthly and daily inspections shall be maintained for at least one year, and shall be available for review by the licensing representative. The log shall reflect, at minimum, the date and time of each inspection and the full name of the person who conducted it.
- c) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. There shall be:
- 1) A minimum of 35 square feet of floor space for each child in care; and

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage space for the bedding materials and the bedding materials are removed before and after nap time.
- d) *No person may smoke tobacco in any area of the group day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- e) Indoor space shall consist of a clean, comfortable environment for children.
 - 1) The group day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a communicable, infectious or contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet or linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to the stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- f) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- g) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- h) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to renewal of license. If nitrate content exceeds 10 ~~ppm~~parts per million, bottled water must be used for children under 15 months of age.
- i) Any group day care home currently licensed as of January 1, 2019 shall submit a survey provided by its day care licensing office that includes the construction date of the home. The construction date for new day care home applicants is captured on the CFS 597-DCI form.
- j) Any group day care home serving children under 6 years of age housed in a building constructed on or before January 1, 2000 shall be subject to lead in water testing by an IEPA laboratory or an IEPA-certified laboratory. A current list of certified laboratories can be obtained by contacting the Day Care Information Line at 1-877-746-0829, or can be accessed online through <https://sunshine.dcf.illinois.gov/Content/Licensing/LeadTesting.aspx>. Water sampling guidelines followed by certified laboratories may also be accessed through this link. Test results and mitigation plans, when required, shall be submitted to the local licensing office within 120 days after notification of test results of 2.01 ppb or above.
- 1) All lead in water test results (at, above or below 2.01 ppb) shall be posted in the home in a visible location and submitted by the applicant or licensee directly to his or her local licensing office;
- 2) A mitigation plan shall be made available to parents and submitted to the local licensing office if test results indicate the presence of lead for each drinking water source with a result of 2.01 ppb or above and shall specify:
- A) Interim measures the applicant/licensee will take to ensure a safe drinking water supply during mitigation;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) Mitigation plan start and planned completion dates;
 - C) Retesting dates, to include one test to occur no later than six months following the completion of the mitigation plan and a second test no later than one year after the completion of the mitigation plan;
 - D) Each drinking water source that tested at 2.01 ppb or above and the planned mitigation activity for each source. Examples of acceptable mitigation strategies include, but are not limited to, installation of mechanical flushing devices, replacement of lead-based lines or fixtures, or reverse osmosis filters installed at affected drinking water fixtures; and
 - E) In extenuating circumstances in which mitigation cannot be readily undertaken (e.g., lead in the municipal water source), alternative external sources of water that tests below 2.01 ppb, such as bottled water with that test result, may be used subject to Department approval.
- 3) Following successful mitigation that results in two consecutive tests below 2.01 ppb, further testing is only required if there has been any change to the water profile of the building, including, but not limited to, replacement of the hot water heater, change in the water source, or change to, or replacement of, the water service lines.
 - 4) The Department reserves the right to require testing upon suspicion of the group day care home misrepresenting the construction date of the building, submitting false or altered testing results, failing to follow mitigation remedies, or committing other actions that may compromise the health and welfare of children. Any group day care home that fails to insure testing and reasonable mitigation action when necessary may be subject to enforcement action, up to and including revocation of, or refusal to renew, the license.
- k) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

before allowing children less than 5 years of age to use the water.

- lj) The group day care home shall provide one toilet for each 10 persons or portion thereof who are present during the hours the group day care home is in operation. These 10 persons include caregivers, child care assistants, members of the household and children other than those under 30 months of age for whom a potty chair is provided.
- mk) There shall be a minimum of 75 square feet of outdoor space per child for the total number of children using the area at any one time. At least 25% of the required space shall be on the premises of the group day care home. The remainder may be a public park, playground or other outdoor recreation area within walking distance (1000 feet) of the group day care home provided the caregiver or an adult assistant accompanies children to this outdoor area.
- nt) There shall be safe outdoor space for active play.

 - 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by physical means (e.g., fence, tree line, chairs, ropes, etc.) against all water hazards, including, but not limited to, pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water, and by adult caregiver supervision at times when children in care are present. Other hazards, such as, but not limited to, heavy traffic and construction, shall be inaccessible to children in care through a physical barrier and adult supervision. Further, outdoor space shall be partitioned or supervised in such a manner that young children are not endangered by the activities of older children.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.

 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- B) There shall be no openings in a play structure with a dimension between $3\frac{1}{2}$ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be $3\frac{1}{2}$ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No opening shall be between $\frac{3}{8}$ inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
 - 6) In-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a $3\frac{1}{2}$ foot fence shall be considered in compliance with the fence requirement.
 - 7) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a $3\frac{1}{2}$ foot fence shall be considered in compliance with the fence requirement.
 - 8) Portable wading pools shall be emptied daily and disinfected before being air-dried.
 - 9) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
 - 10) Children shall be closely supervised by the caregiver when public parks or

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

playgrounds are used for play, during play and while traveling to and from the area.

- 11) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 408.45.

~~om~~) A caregiver who relies upon outdoor space shared with other residents in a multiple family dwelling shall have a written agreement with the other residents or the owners of the outdoor area authorizing the use of the space by the group day care home and the children cared for.

~~pn~~) Insect and rodent control shall be maintained.

- 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
- 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.

~~qe~~) Healthy household pets that present no danger to children are permitted.

- 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
- 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
- 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
- 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the group day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- 1P) The Department shall request that the Illinois Department of Public Health or a local health department authorized by it and/or the Office of the State Fire Marshal or the local fire department authorized by it inspect the group day care home and its premises whenever the Department has reason to believe that conditions in the home or its premises pose potential health or safety hazards to the children cared for in the home.
- 5Q) Written emergency preparedness plans shall be developed and shall specify the actions to be taken in the event of a fire, tornado or other emergency. All caregivers and assistants in the group day care home shall be familiar with these plans. The emergency preparedness plans shall include, but are not limited to:
- 1) A fire evacuation plan identifying exits from each area used for child care and specifying the evacuation route.
 - 2) A fire evacuation plan identifying a safe assembly area outside of the home. It shall also identify a nearby indoor location for post-evacuation holding if needed.
 - 3) A fire evacuation plan requiring that the home be evacuated immediately and the children's safety insured before calling the local emergency number 911 or attempting to combat the fire.
 - 4) Monthly fire drills to be conducted for the purpose of removing children from the group day care home as quickly as possible during an emergency.
 - 5) Monthly tornado drills to be conducted for the purpose of getting children accustomed to moving to a position of safety in event of a tornado. The alphabetic card file required by Section 408.120(a)(2) shall accompany the caregiver during the drills.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 6) A tornado plan specifying actions that will be taken in the event of tornado or other severe weather warning, including designation of those areas of the group day care home to be used as safe spots.
 - 7) Specific procedures for notifying parents if evacuation is necessary and how they will be reunited with their children.
 - 8) Specific procedures for evacuating children who are less than 30 months of age and/or for evacuating special needs children, when applicable.
- tf) Fire and tornado drills shall be documented and that documentation shall be maintained on file for a period of 3 years. The licensee shall hold monthly fire safety inspections of the group day care home and maintain documentation on file for a period of 1 year.
- us) *Handguns are prohibited on the premises of the group day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the group day care home. The licensee shall post a "no firearms" sign, as described in Section 65(d) of the Firearm Concealed Carry Act [430 ILCS 66/65(d)] in a visible location where parents pick up children.*
- vt) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (s), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- 1) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
 - 2) *The operator of the group home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are in locked storage inaccessible to children. (Section 7 of the Child Care Act of 1969 [225 ILCS 10/7])*- The notification need not disclose the location where the firearms and ammunition are stored.
- w#) A group day care home operator relying upon a cooperative or lending

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

arrangement to meet the equipment requirements of this Part shall provide a copy of a written agreement specifying which equipment required by this Part is covered by the agreement. Further, the operator shall demonstrate to the satisfaction of the Department that the equipment covered by the agreement is both available and utilized by the group day care home as required by this Part.

- xv) Operation of other business on the premises must not interfere with the care of children.
- yw) A group day care home may not house bedridden or chronically ill persons except by permission of the Department. The Department shall grant such permission unless the person has a reportable contagious or communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.
- zx) A group day care home shall have certification that all cribs used by the group home meet or exceed the federal safety standards in 16 CFR 1219 or 1220 (2011). This certification from the manufacturer shall be available for inspection by the licensing representative. In the absence of a manufacturer's certificate, proof that the crib was manufactured on or after June 28, 2011 will meet the required standard.

(Source: Amended at 43 Ill. Reg. 265, effective January 1, 2019)

Section 408.45 Caregivers

- a) The caregiver is responsible for the day-to-day operation of the group day care home in accordance with the standards prescribed in this Part.
- b) The caregiver or a designated child care assistant meeting the requirements of this Section shall be at the group day care home at all times that the group day care home is in operation, except when transporting children or accompanying them on field trips.
- c) The caregivers in a group day care home shall be at least 21 years of age.
- d) The caregivers shall have a high school diploma or equivalency certificate.
- e) In addition to meeting the requirements of Sections 408.35 and 408.40 the caregiver in a group day home shall have achieved:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) One year (1560 clock hours) child development experience in a licensed day care home, nursery school, kindergarten, or licensed day care center plus 6 semester or equivalent quarter hours in courses related directly to child care and/or child development from an accredited college or university;
 - 2) One year (30 semester hours or 45 quarter hours) of credit from an accredited college or university with 6 semester or equivalent quarter hours related directly to child care and/or child development; or
 - 3) Completion of a credentialing program approved in accordance with Appendix F ~~of this Part~~.
- f) The caregivers shall complete 15 clock hours of in-service training per licensing year in accordance with the requirements in Appendix G.
- 1) ~~The Such~~ training may be derived from programs offered by any of the entities identified in Appendix G.
 - 2) Courses or workshops to meet this requirement include, but are not limited to, those listed in Appendix G.
 - 3) Licensees shall submit to the local licensing office a certificate of completion of lead safety training consisting of instruction in the following topics:
 - A) Mitigation plan strategies for test results of 2.01 ppb or above; and
 - B) Impact of lead exposure.
- g) Caregivers obtaining clock hours of training in excess of the required 15 clock hours per year may apply up to 5 clock hours to the next year's training requirements.
- h) The records of the group day care home shall document the continuing education in which the caregiver has participated, and these records shall be available for review by the Department.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) Through interaction with the licensing representative, children, parents or guardian of children in care and operation of the group day care home in accordance with standards prescribed by this Part, caregivers shall exhibit competence in the following specific areas:
- 1) Knowledge of basic hygiene, safety, and nutrition;
 - 2) The ability to relate comfortably with parents and to communicate with them on differences in caregiving methods, values, and goals;
 - 3) The ability to communicate with children;
 - 4) The ability to set realistic controls for children and to enforce these without harshness or physical abuse;
 - 5) Knowledge of the children's need to explore and manipulate and the willingness to provide and maintain a home where children can enjoy living and learning; ~~and-~~
 - 6) Using developmentally appropriate behavior management techniques that do not constitute corporal punishment of children.
- j) The caregivers shall be responsible for the planning and supervision of the program and activities of the children; orienting child care assistants and substitutes to the operation of the group day care home; on-site supervision of child care assistants; and in-service training totaling a minimum of 15 clock hours per year for the child care assistants. Orientation and training may be provided by the primary caregivers or outside resource persons and shall include recognizing and reporting child abuse or neglect, licensing standards prescribed by this Part, first aid, health and sanitation, fire prevention and safety procedures, special health, developmental, or nutritional needs of children cared for in the group day care home.
- k) The caregivers may not work or be employed outside the home during the hours that child care is being provided. This restriction does not apply to spouses qualifying as caregivers, provided one of them is in the home during the hours that child care is being provided. Outside employment during hours that child care is not being provided shall not interfere with child care.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- l) The caregiver shall be awake, alert, and able to supervise the children when providing care, except as allowed by Section 408.115 ~~for night care~~.

(Source: Amended at 43 Ill. Reg. 265, effective January 1, 2019)

Section 408.60 Admission and Discharge Procedures

- a) No child served in a day care facility shall remain on the premises for more than 12 hours in any 24-hour period unless the parent's employment schedule requires more than 12 hours of day care. Regardless of the parent's employment, or training schedule, at no time shall children cared for in a day care facility remain on the premises for more than 18 consecutive hours.
- b) Prior to acceptance of a child for care, the caregiver shall require that the parents or guardian accompany the child to the home to become acquainted with the caregiver and with the service to be provided.
- c) No child under 6 years of age may be admitted to the group day care home unless the health examination, complete with lead risk assessment if the child resides in an area defined as low risk by the Illinois Department of Public Health, or a screening for lead poisoning if the child resides in an area defined as high risk by the Illinois Department of Public Health (see 77 Ill. Adm. Code 845; Lead Poisoning Prevention Code), has been completed as required by Department of Public Health rules at 77 Ill. Adm. Code 665; Child Health Examination Code.
- d) The caregiver shall require that the parent ~~or~~ guardian provide a certified copy of the child's birth certificate. The caregiver:
 - 1) Shall provide a written notice to the parent or guardian of a child to be *enrolled for the first time that within 30 days* after enrollment the parent or guardian shall *provide a certified copy of the child's birth certificate or other reliable proof of identity and age of the child*.
 - A) The caregiver shall promptly make a copy of the certified copy and return the original certified copy to the parent or guardian.
 - B) If a certified copy of the birth certificate is not available, the parent or guardian must submit a *passport, visa or other governmental documentation as proof of the child's identity and age and an*

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

affidavit or notarized letter explaining the inability to produce a certified copy of the birth certificate. [325 ILCS 50/5]

- C) The notice to parent or guardian shall also indicate that the caregiver is required by law to notify the Illinois State Police or local law enforcement agency if the parent or guardian fails to submit proof of the child's identity within the 30 day time frame.
- 2) Shall notify the Illinois State Police or local law enforcement agency of the parent's failure to submit a certified copy of the child's birth certificate or other reliable proof of identity. The caregiver shall also *notify the parent or guardian in writing that the Illinois State Police or local law enforcement has been notified as required by law and that the parent or guardian has 10 additional days to comply* by submitting the required documentation. [325 ILCS 50/5]
- 3) *Shall report to the Illinois State Police or local law enforcement agency any affidavit received which appears inaccurate or suspicious in form or content.* [325 ILCS 50/5]
- 4) *Shall flag the record of a child enrolled at the day care who is reported by the Illinois State Police as a missing person, and shall immediately report to the Illinois State Police any request concerning flagged records or knowledge as to the whereabouts of any missing child.* [325 ILCS 50/5]
- e) The parents or guardian shall be permitted to visit the home, without prior notice, during the hours their children are in care.
- f) The caregivers shall conduct a daily, preadmissions screening to determine if the child has obvious symptoms of illness. If symptoms of illness are present, the caregiver shall determine whether or not to provide care for the child, depending upon the apparent degree of illness, other children present, and facilities available to provide care for the ill child in accordance with the requirements of Section 408.70.
- g) Children with diarrhea and those with rash combined with fever (oral temperature of 100 degrees Fahrenheit or higher) shall not be admitted to the group day care home while these symptoms persist, and shall be removed as soon as possible should these symptoms develop while the child is in care.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- h) A child shall be discharged from the facility only to the child's parents or guardian or to a person designated in writing by the parents or guardian to receive the child.
- 1) The caregiver shall refuse to release a child to any person, whether related or unrelated to the child, who has not been authorized, in writing, by the parents or guardian to receive the child.
 - 2) Persons not known to the caregiver shall be required to provide a driver's license (with photo) or photo identification card issued by the Illinois Secretary of State to establish their identity prior to a child's release to them.
 - 3) The facility shall maintain a list of persons designated, in writing, by the parents, or guardian to whom the facility can be expected to discharge the child at least once per week. These persons, in addition to the parents or guardian, shall constitute the primary list of persons to whom the child may be released.
 - 4) In addition, the facility shall maintain a contingency list of persons designated, in writing, by the parents or guardian to whom the child may be released less frequently than once per week. When the child is released to a person on the contingency list, the facility shall maintain a record of the person to whom the child was released, the date and time that the child was released, and the manner that the child left the facility (whether on foot, by passenger car, by taxicab or other means of transportation).
- i) Other discharge provisions of this Section notwithstanding, a child leaving the group day care home to attend school shall be released in accordance with the written authorization of the parents or guardian. Such authorization shall include the time that the child is to be released and the means of transportation the child is to use.
- j) All group day care homes shall have a written policy that explains the actions the provider will take if a parent or guardian does not retrieve, or arrange to have someone retrieve, his or her child at the designated, agreed upon time. The policy shall consist of the provider's expectations, clearly presented to the parent or guardian in the form of a written agreement that shall be signed by the parent or guardian, and shall include at least the following elements:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) The consequences of not picking up the children on time, including:
 - A) Amount of late fee, if any, and when those fees begin to accrue;
 - B) The degree of diligence the provider will use to reach emergency contacts, e.g., number of attempted phone calls to parents and emergency contacts, requests for police assistance in finding emergency contacts; and
 - C) Length of time the facility will keep the child beyond the pick-up time before contacting outside authorities, such as the child abuse hotline or police.
 - 2) Emphasis on the importance of having up-to-date emergency contact numbers on file.
 - 3) Acknowledgement of the provider's responsibility for the child's protection and well-being until the parent or outside authorities arrive.
 - 4) A reminder to staff that the child is not responsible for the situation. All discussions regarding these situations shall be with the parent or guardian, never with the child.
- k) The daily list of children in care shall be readily accessible in case of emergency evacuations and fire drills.

(Source: Amended at 43 Ill. Reg. 265, effective January 1, 2019)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3) Section Number: 190.165 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].
- 5) Effective Date of Rule: January 1, 2019
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Financial Institutions and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg.17285; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act signed into law by President Trump on May 24, 2018 (S. 2155, 115th Congress (2018)), the definitional section of the member business loan (MBL) provisions of the Federal Credit Union Act was amended. On May 30, 2018, the NCUA promulgated conforming amendments to its NCUA MBL Rule (12 CFR Part 723). As a result of this federal legislative and regulatory action, the definition of an

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

MBL now excludes all commercial extensions of credit fully secured by a lien on a 1 to 4 family dwelling, regardless of the borrower's occupancy status (previously, the exclusion was limited to such loans made on a 1 to 4 family dwelling occupied by the member as his or her primary residence). Because those loans are now classified as real estate loans and not considered MBLs, they will no longer count towards the aggregate MBL cap imposed on federally insured credit unions by the FCU Act.

IDFPR-DFI has promulgated a MBL Rule for state-chartered credit unions and since the NCUA has determined it is substantially similar to the NCUA MBL Rule, state credit unions need only comply with the State MBL Rule. For consistency and parity with the NCUA MBL Rule (81 FR 13554, Mar. 14, 2016, as amended at 83 FR 25882, eff. June 5, 2018), the IDFPR MBL Rule should be amended in Section 190.165(h)(2) to add (C) and revised in Section 190.165(h)(3) to described in this proposed amendment.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190

ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

Section	
190.2	Definitions
190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.15	Civil Penalty
190.20	Hearings
190.25	Regulatory Examination Consistency and Due Process
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
190.70	Loan Loss Accounting Procedures
190.80	Use of Electronic Data Processing
190.90	Fixed Asset Investments
190.100	Classes of Share and Special Purpose Share Accounts
190.110	Share Drafts
190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage (Repealed)
190.160	Lending Limits – Consumer Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.185	Investment in "Other Financial Institutions"
190.190	Liquidation
190.200	Conversion of Charter
190.210	Reimbursement for Financial Records
190.220	Registration of Out of State Credit Unions

SUBPART B: HIGH RISK HOME LOANS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

Section

190.500	Definitions (Repealed)
190.505	Applicability of Rule (Repealed)
190.510	Good Faith Requirements (Repealed)
190.515	Fraudulent or Deceptive Practices (Repealed)
190.520	Prohibited Refinances (Repealed)
190.525	Negative Amortization (Repealed)
190.530	Negative Equity (Repealed)
190.535	Balloon Payments (Repealed)
190.540	Financing of Certain Points and Fees (Repealed)
190.545	Financing of Single Premium Insurance Products (Repealed)
190.550	Lending Without Due Regard to Ability to Repay (Repealed)
190.555	Verification of Ability to Repay (Repealed)
190.560	Payments to Contractors (Repealed)
190.565	Counseling Prior to Perfecting Foreclosure (Repealed)
190.570	Mortgage Awareness Program (Repealed)
190.575	Offer of Mortgage Awareness Program (Repealed)
190.580	Third Party Review (Repealed)

SUBPART C: PAYDAY LOANS

Section

190.600	Definitions
190.601	Purpose and Scope
190.605	Applicability of Rule
190.610	Issuance of Payday Loans by Credit Unions

190.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)

190.APPENDIX B Mortgage Ratio Worksheet (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 37 Ill. Reg. 12450, effective July 16, 2013; amended at 38 Ill. Reg. 19910, effective October 17, 2014; amended at 41 Ill. Reg. 4764, effective May 1, 2017; amended at 41 Ill. Reg. 11307, effective August 28, 2017; amended at 43 Ill. Reg. 303, effective January 1, 2019.

SUBPART A: GENERAL PROVISIONS

Section 190.165 Business Loans

- a) Purpose and Scope
 - 1) This Section is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that an Illinois chartered credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory limit on the aggregate amount of member business loans that a federally insured credit union may make pursuant to Section 107A of the Federal Credit Union Act (12 USC 1757a). This Section distinguishes between these two distinct objectives.
 - 2) Credit Unions and Loans Covered by this Section
 - A) This Section applies to Illinois chartered natural person credit unions. However, an Illinois chartered natural person credit union is not subject to subsections (c) and (d) if it meets all of the following conditions:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- i) The credit union's total assets are less than \$250 million.
 - ii) The credit union's aggregate amount of outstanding commercial loan balances and unfunded commitments, plus any outstanding commercial loan balances and unfunded commitments of participations sold, plus any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union total less than 15% of the credit union's net worth.
 - iii) In a given calendar year the amount of originated and sold commercial loans the credit union does not continue to service total less than 15% of the credit union's net worth.
- B) This Section does not apply to loans:
- i) Made by a corporate credit union, as defined in Section 1.1 of the Act;
 - ii) Made by a federally insured credit union to another federally insured credit union;
 - iii) Made by a credit union to a credit union service organization, as defined in Section 190.5; or
 - iv) Fully secured by a lien on a 1 to 4 family residential property that is a member's primary residence.
- 3) Other Regulations that Apply
- A) As required by section 741.203 of the NCUA regulations (12 CFR 741.203), a federally insured, State chartered credit union must comply with sections 701.21(c)(8) (prohibited fees) and (d)(5) (non-preferential loans) (12 CFR 701.21(c)(8) and (d)(5)).
 - B) When a credit union makes a commercial loan as part of a loan program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

an advance commitment to purchase the loan in full and that program has requirements that are less restrictive than those required by this Section, the credit union may follow the loan requirements of the relevant guaranteed loan program.

- C) The requirements of section 701.22 of the NCUA regulations (12 CFR 701.22) apply to a federally insured credit union's purchase of a participation interest in a commercial loan.
- b) Definitions – For purposes of this Section, the following definitions apply:
- 1) "Associated borrower" means any other person or entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any other person or entity, such as a drawer, endorser or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower. Exceptions to this definition for partnerships, joint ventures and associations are as follows:
 - A) If the borrower is a partnership, joint venture or association, and the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is a member or partner of the borrower, and neither a direct benefit nor a common enterprise exists, this other person is not an associated borrower.
 - B) If the borrower is a member or partner of a partnership, joint venture or association, the other entity is not an associated borrower if:
 - i) the other entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is the partnership, joint venture or association;
 - ii) the borrower is a limited partner of that other entity; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- iii) by the terms of a partnership or membership agreement valid under applicable law, the borrower is not held generally liable for the debts or actions of that other entity.
- C) If the borrower is a member or partner of a partnership, joint venture or association, the other person is not an associated borrower if:
- i) the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is another member or partner of the partnership, joint venture or association; and
 - ii) neither a direct benefit nor a common enterprise exists.
- 2) "Commercial loan" means any loan, line of credit or letter of credit (including any unfunded commitments), and any interest a credit union obtains in loans made by another lender, to individuals, sole proprietorships, partnerships, corporations or other business enterprises for commercial, industrial, agricultural or professional purposes, but not for personal expenditure purposes. Excluded from this definition are loans:
- A) made by a corporate credit union;
 - B) made by a federally insured credit union to another federally insured credit union;
 - C) made by a credit union to a credit union service organization;
 - D) made by a credit union not subject to section 107A of the Federal Credit Union Act (12 USC 1757a) to another credit union;
 - E) secured by a 1 to 4 family residential property (whether or not it is the borrower's primary residence);
 - F) fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
 - G) secured by a vehicle manufactured for household use; and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- H) that would otherwise meet the definition of commercial loan, when the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union to a borrower or an associated borrower are less than \$50,000.
- 3) "Common enterprise" means:
- A) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in subsection (b)(3)(B) are met;
 - B) Loans or extensions of credit are made:
 - i) To borrowers who are related directly or indirectly through common control, including when one borrower is directly or indirectly controlled by another borrower; and
 - ii) Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence means 50% or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions and similar receipts or payments; or
 - C) Separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50% of the voting securities or voting interests.
- 4) "Control" means a person or entity directly or indirectly, or acting through or together with one or more persons or entities:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- A) Owns, controls or has the power to vote 25% or more of any class of voting securities of another person or entity;
 - B) Controls, in any manner, the election of a majority of the directors, trustees or other persons exercising similar functions of another person or entity; or
 - C) Has the power to exercise a controlling influence over the management or policies of another person or entity.
- 5) "Credit risk rating system" means a formal process that identifies and assigns a relative credit risk score to each commercial loan in a credit union's portfolio, using ordinal ratings to represent the degree of risk. The credit risk score is determined through an evaluation of quantitative factors based on financial performance and qualitative factors based on management, operational, market and business environmental factors.
- 6) "Direct benefit" means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's-length transaction, when the proceeds are used to acquire property, goods or services.
- 7) "Financial statement quality" is determined by:
- A) The level of assurance provided by the preparer and the required professional standards supporting the preparer's opinion. In many cases, tax returns and/or financial statements professionally prepared in accordance with generally accepted accounting principles (GAAP) will be sufficient for less complex borrowing relationships, such as those that are limited to a single operation of the borrower and principal with relatively low debt. For more complex and larger borrowing relationships, such as those involving borrowers or principals with significant loans outstanding or multiple or interrelated operations, the credit union should require borrowers and principals to provide either:
 - i) An auditor's review of the financial statements prepared consistent with GAAP to obtain limited assurance (i.e., a "review quality" financial statement); or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- ii) an independent financial statement audit under generally accepted auditing standards (GAAS) for the expression of an opinion on the financial statements prepared in accordance with GAAP (i.e., an "audit quality" financial statement).
 - B) Credit unions should address the criteria and thresholds for the required financial reporting in their policies. Credit unions should allow exceptions in their credit policies if they determine the relationship does not require the same level of assurance and they are satisfied that the lesser quality still provides them with accurate reporting of the borrower's financial performance. Credit unions will be expected to address the issue of exceptions in their loan policies. Any exception should be documented by credit union staff and approved by the appropriate designated internal authority.
- 8) "Immediate family member" means a spouse or other family member living in the same household.
- 9) "Loan secured by a 1 to 4 family residential property" means a loan that, at origination, is secured wholly or substantially by a lien on a 1 to 4 family residential property for which the lien is central to the extension of the credit; that is, the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1 to 4 family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.
- 10) "Loan secured by a vehicle manufactured for household use" means a loan that, at origination, is secured wholly or substantially by a lien on a new or used passenger car or other vehicle such as a minivan, sport-utility vehicle, pickup truck or similar light truck or heavy-duty truck generally manufactured for personal, family or household use and not used as a fleet vehicle or to carry fare-paying passengers, for which the lien is central to the extension of credit. A lien is central to the extension of credit if the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

secured by a lien on a vehicle manufactured for household use if the estimated value of the collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.

- 11) "Loan-to-value ratio" means, with respect to any item of collateral, the aggregate amount of all sums borrowed and secured by that collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union's lien position, divided by the current collateral value. The current collateral value must be established by prudent and accepted commercial lending practices and comply with all regulatory requirements. For a construction and development loan, the collateral value is the lesser of cost to complete or prospective market value, as determined in accordance with subsection (f).
 - 12) "Net worth" means a credit union's net worth, as defined in Section 190.2.
 - 13) "Readily marketable collateral" means a financial instrument or bullion that is salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.
 - 14) "Residential property" means a house, condominium unit, cooperative unit, manufactured home (whether completed or under construction) or unimproved land zoned for 1 to 4 family residential use. A boat or motor home, even if used as a primary residence, or timeshare property is not residential property.
- c) Board of Directors and Management Responsibilities
Prior to engaging in commercial lending, a credit union must address the following board responsibilities and operational requirements:
- 1) Board of Directors. A credit union's board of directors, at a minimum, must:
 - A) Approve a commercial loan policy that complies with subsection (d). The board must review its policy on an annual basis, prior to any material change in the credit union's commercial lending

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

program or related organizational structure, and in response to any material change in portfolio performance or economic conditions, and update it when warranted.

- B) Ensure the credit union appropriately staffs its commercial lending program in compliance with subsection (c)(2).
 - C) Understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of risk in the credit union's commercial loan portfolio, including its potential impact on the credit union's earnings and net worth.
- 2) Required Expertise and Experience. A credit union making, purchasing or holding any commercial loan must internally possess the following experience and competencies:
- A) Senior Executive Officers. A credit union's senior executive officers overseeing the commercial lending function must understand the credit union's commercial lending activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial lending in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.
 - B) Qualified Lending Personnel. A credit union must employ qualified staff with experience in the following areas:
 - i) Underwriting and processing for the type of commercial lending in which the credit union is engaged;
 - ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and
 - iii) Conducting collection and loss mitigation activities for the type of commercial lending in which the credit union is engaged.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- C) Options to Meet the Required Experience. A credit union may meet the experience requirements in subsections (c)(2)(A) and (c)(2)(B) by conducting internal training and development, hiring qualified individuals or using a third-party, such as an independent contractor or a credit union service organization. However, with respect to the qualified lending personnel requirements in subsection (c)(2)(B), use of a third-party is permissible only if the following conditions are met:
- i) The third-party has no affiliation or contractual relationship with the borrower or any associated borrowers;
 - ii) The actual decision to grant a loan must reside with the credit union;
 - iii) Qualified credit union staff exercises ongoing oversight over the third party by regularly evaluating the quality of any work the third party performs for the credit union; and
 - iv) The third-party arrangement must otherwise comply with subsection (g).
- d) Commercial Loan Policy
- Prior to engaging in commercial lending, a credit union must adopt and implement a comprehensive written commercial loan policy and establish procedures for commercial lending. The board-approved policy must ensure the credit union's commercial lending activities are performed in a safe and sound manner by providing for ongoing control, measurement and management of the credit union's commercial lending activities. At a minimum, a credit union's commercial loan policy must address each of the following:
- 1) Type of commercial loans permitted.
 - 2) Trade area.
 - 3) Maximum amount of assets, in relation to net worth, allowed:
 - A) in secured, unsecured and unguaranteed commercial loans;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- B) in any given category or type of commercial loan; and
- C) to any one borrower or group of associated borrowers, provided:
 - i) the policy must specify that the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15% of the credit union's net worth or \$100,000, plus an additional 10% of the credit union's net worth if the amount that exceeds the credit union's 15% general limit is fully secured at all times with a perfected security interest by readily marketable collateral, as defined in subsection (b);
 - ii) any insured or guaranteed portion of a commercial loan made through a program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment or provides an advance commitment to purchase the loan in full, is excluded from this limit; and
 - iii) the maximum limit on commercial loans is in addition to the secured and unsecured limits established in Sections 190.140 and 190.160; provided, however, in no event shall all loans to any borrower or group of associated borrowers exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.
- 4) Qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering and collecting commercial loans.
- 5) Loan approval processes, including establishing levels of loan approval authority commensurate with the individual's or committee's proficiency in evaluating and understanding commercial loan risk, when considered in terms of the level of risk the borrowing relationship poses to the credit union.
- 6) Underwriting standards commensurate with the size, scope and complexity of the commercial lending activities and borrowing

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

relationships contemplated. The standards must, at a minimum, address the following:

- A) The level and depth of financial analysis necessary to evaluate the financial trends and condition of the borrower and the ability of the borrower to meet debt service requirements;
 - B) Thorough due diligence of the principals to determine whether any related interests of the principals might have a negative impact or place an undue burden on the borrower and related interests with regard to meeting the debt obligations with the credit union;
 - C) Requirements of a borrower-prepared projection when historic performance does not support projected debt payments. The projection must be supported by reasonable rationale and, at a minimum, must include a projected balance sheet and income and expense statement;
 - D) The financial statement quality and the degree of verification sufficient to support an accurate financial analysis and risk assessment;
 - E) The methods to be used in collateral evaluation, for all types of collateral authorized, including loan-to-value ratio limits. These methods must be appropriate for the particular type of collateral. The means to secure various types of collateral, and the measures taken for environmental due diligence, must also be appropriate for all authorized collateral; and
 - F) Other appropriate risk assessment, including analysis of the impact of current market conditions on the borrower and associated borrowers.
- 7) Risk management processes commensurate with the size, scope and complexity of the credit union's commercial lending activities and borrowing relationships. These processes must, at a minimum, address the following:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- A) Use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;
 - B) Periodic loan review, consistent with loan covenants, sufficient to conduct portfolio risk management. This review must include a periodic reevaluation of the value and marketability of any collateral;
 - C) A credit risk rating system. Credit risk ratings must be assigned to commercial loans at inception and reviewed as frequently as necessary to satisfy the credit union's risk monitoring and reporting policies and to ensure adequate reserves as required by GAAP; and
 - D) A process to identify, report and monitor loans approved as exceptions to the credit union's loan policy.
- e) Collateral and Security
- 1) A credit union must require collateral commensurate with the level of risk associated with the size and type of any commercial loan. Collateral must be sufficient to ensure adequate loan balance protection, along with appropriate risk sharing with the borrower and principals. A credit union making an unsecured loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.
 - 2) A credit union that does not require the full and unconditional personal guarantee from the principals of the borrower who has a controlling interest in the borrower must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.
- f) Construction and Development Loans
- In addition to the requirements of subsections (a) through (e), the following requirements apply to a construction and development loan made by any credit union.
- 1) For the purposes of this subsection (f), a construction or development loan means any financing arrangement enabling the borrower to acquire property or rights to property, including land or structures, with the intent to construct or renovate an income producing property, such as residential

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

housing for rental or sale, or a commercial building, such as may be used for commercial, agricultural, industrial or other similar purposes. It also means a financing arrangement for the construction, major expansion or renovation of the property types referenced in this subsection (f). The collateral valuation for securing a construction or development loan depends on the satisfactory completion of the proposed construction or renovation when the loan proceeds are disbursed in increments as the work is completed. A loan to finance maintenance, repairs or improvements to an existing income producing property that does not change its use or materially impact the property is not a construction or development loan.

- 2) A credit union that elects to make a construction or development loan must ensure that its commercial loan policy includes adequate provisions by which the collateral value associated with the project is properly determined and established. For a construction or development loan, collateral value is the lesser of the project's cost to complete or its prospective market value.
 - A) For the purposes of this subsection (f), "cost to complete" means the sum of all qualifying costs necessary to complete a construction project and documented in an approved construction budget. Qualifying costs generally include on-site or off-site improvements, building construction, other reasonable and customary costs paid to construct or improve a project, including general contractor's fees, and other expenses normally included in a construction contract, such as bonding and contractor insurance. Qualifying costs include the value of the land, determined as the lesser of appraised market value or purchase price plus the cost of any improvements. Qualifying costs also include interest, a contingency account to fund unanticipated overruns, and other development costs such as fees and related pre-development expenses. Interest expense is a qualifying cost only to the extent it is included in the construction budget and is calculated based on the projected changes in the loan balance up to the expected "as-complete" date for owner-occupied non-income producing commercial real estate or the "as-stabilized" date for income producing real estate. Project costs for related parties, such as developer fees, leasing expenses, brokerage commissions and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

management fees, are included in qualifying costs only if reasonable in comparison to the cost of similar services from a third party. Qualifying costs exclude interest or preferred returns payable to equity partners or subordinated debt holders, the developer's general corporate overhead, and selling costs to be funded out of sales proceeds, such as brokerage commissions and other closing costs.

- B) For the purposes of this subsection (f), "prospective market value" means the market value opinion determined by an independent appraiser in compliance with the relevant standards set forth in the USPAP. Prospective value opinions are intended to reflect the current expectations and perceptions of market participants, based on available data. Two prospective value opinions may be required to reflect the time frame during which development, construction and occupancy occur. The prospective market value "as-completed" reflects the property's market value as of the time that development is to be completed. The prospective market value "as-stabilized" reflects the property's market value as of the time the property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.
- 3) A credit union that elects to make a construction and development loan must also assure its commercial loan policy meets the following conditions:
- A) Qualified personnel representing the interests of the credit union must conduct a review and approval of any line item construction budget prior to closing the loan;
- B) A credit union approved requisition and loan disbursement process is established;
- C) Release or disbursement of loan funds occurs only after on-site inspections, documented in a written report by qualified personnel representing the interests of the credit union, certifying that the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan are sufficient to complete the project; and

- D) Each loan disbursement is subject to confirmation that no intervening liens have been filed.

g) Prohibited Activities

- 1) Ineligible Borrowers. A credit union shall not grant a commercial loan to the following:
 - A) Any senior management employee directly or indirectly involved in the credit union's commercial loan underwriting, servicing and collection process, and any of their immediate family members;
 - B) Any person meeting the definition of an associated borrower with respect to persons identified in subsection (g)(1)(A); or
 - C) Any compensated director, unless the credit union's board of directors approves granting the loan and the compensated director was recused from the board's decision making process.
- 2) Equity Agreements/Joint Ventures. A credit union shall not grant a commercial loan if any additional income received by the credit union or its senior management employees is tied to the profit or sale of any business or commercial endeavor that benefits from the proceeds of the loan.
- 3) Conflicts of Interest. Any third party used by a credit union to meet the requirements of this Section must be independent from the commercial loan transaction and shall not have a participation interest in a loan or an interest in any collateral securing a loan that the third party is responsible for reviewing, or an expectation of receiving compensation of any sort that is contingent on the closing of the loan, with the following exceptions:
 - A) A third party may provide a service to the credit union that is related to the transaction, such as loan servicing.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- B) The third party may provide the requisite experience to a credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed.
 - C) A credit union may use the services of a credit union service organization that otherwise meets the requirements of subsection (c)(2)(C) even if the credit union service organization is not independent from the transaction, provided the credit union has a controlling financial interest in the credit union service organization as determined under GAAP.
- h) **Aggregate Member Business Loan Limit; Exclusions and Exceptions**
This subsection (h) incorporates the statutory limits on the aggregate amount of member business loans that may be held by a federally insured credit union and establishes the method for calculating a federally insured credit union's net member business loan balance for purposes of the statutory limits and NCUA form 5300 reporting.
- 1) **Statutory Limits.** The aggregate limit on a federally insured credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of the Federal Credit Union Act (12 USC 1790d(c)(1)(A)).
 - 2) **Definition.** For the purposes of this subsection (h), "member business loan" means any commercial loan as defined in subsection (b), except that the following commercial loans are not member business loans and are not counted toward the aggregate limit on a federally insured credit union's member business loans:
 - A) Any loan in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full;
~~and~~
 - B) Any non-member commercial loan or non-member participation interest in a commercial loan made by another lender, provided the federally insured credit union acquired the non-member loans and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

participation interests in compliance with all relevant laws and regulations and is not, in conjunction with one or more other credit unions, trading member business loans to circumvent the aggregate limit; and-

C) Any loan that is fully secured by a lien on a 1 to 4 family dwelling.

- 3) Exceptions. Any ~~loan secured by a lien on a 1 to 4 family residential property that is not a member's primary residence, and any~~ loan secured by a vehicle manufactured for household use that will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose, is not a commercial loan but is a member business loan (if the outstanding aggregate net member business loan balance is equal to or greater than \$50,000) and must be counted toward the aggregate limit on a federally insured credit union's member business loans.
- 4) Statutory Exemptions. A federally insured credit union that has a low-income designation, or participates in the U.S. Department of the Treasury's Community Development Financial Institutions Program, or was chartered for the purpose of making member business loans, or that as of the date of enactment of the Credit Union Membership Access Act of 1998 (P.L. 105-219), had a history of primarily making commercial loans, is exempt from compliance with the aggregate member business loan limits in this subsection (h).
- 5) Method of Calculation for Net Member Business Loan Balance. For the purposes of NCUA form 5300 reporting, a federally insured credit union's net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is:
 - A) secured by shares in the credit union;
 - B) secured by shares or deposits in other financial institutions;
 - C) secured by a lien on a member's primary residence;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

- D) insured or guaranteed by any agency of the federal government, a state or any political subdivision of that state;
 - E) subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of that state; or
 - F) sold as a participation interest without recourse and qualifying for true sales accounting under GAAP.
- i) **Transitional Provisions**
This subsection (i) governs circumstances in which, as of January 1, 2017, a credit union is operating in accordance with an approved waiver from the Division or NCUA or is subject to any enforcement constraint relative to its commercial lending activities.
- 1) **Waivers.** As of January 1, 2017, any waiver approved by the Division or NCUA concerning a credit union's commercial lending activity is rendered moot, except that waivers granted prior to January 1, 2017, for borrowing relationships (loans made to one borrower or group of associated borrowers), will be grandfathered. However, the debt associated with those relationships may not be increased.
 - 2) **Enforcement Constraints.** Limitations or other conditions imposed on a credit union in any written directive from the Division or NCUA, including, but not limited to, items specified in any Document of Resolution, any published or unpublished Letter of Understanding and Agreement, Regional Director Letter, Preliminary Warning Letter, or formal enforcement action, are unaffected by the adoption of this Section. Included within this subsection (i)(2) are any constraints or conditions embedded within any waiver issued by the Division or NCUA. As of January 1, 2017, all these limitations or other conditions remain in place until they are modified by the Division or NCUA.
- j) **Allowance for Loan Losses for Business Loans**
Allowance for loan losses for business loans will be determined in accordance with GAAP. The external auditor conducting the credit union's financial statement audit shall analyze the methodology employed by the credit union and conclude

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

that the financial statements, including the allowance for loan losses, are fairly stated in all material respects in accordance with GAAP.

(Source: Amended at 43 Ill. Reg. 303, effective January 1, 2019)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Number: 112.110 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and Public Act 99-0145.
- 5) Effective Date of Rule: December 20, 2018
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 14263; August 3, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
112.251	Amendment	42 Ill. Reg. 18285; October 12, 2018
112.252	Amendment	42 Ill. Reg. 18285; October 12, 2018
112.253	Repealed	42 Ill. Reg. 18285; October 12, 2018
112.254	Repealed	42 Ill. Reg. 18285; October 12, 2018

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for TANF.
- 16) Information and questions regarding this adopted rule shall be directed to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section

112.1	Description of the Assistance Program and Time Limit
112.2	Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3	Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5	Incorporation by Reference
112.6	The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.55	Electronic Benefits Transfer (EBT) Restrictions
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

112.69 Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section

112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section

112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section

112.100	Unearned Income
112.101	Unearned Income of Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Employed Applicants
112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion from Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income from Work-Study and Training Programs
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 112.152 Asset Disregards (Repealed)
- 112.153 Deferral of Consideration of Assets (Repealed)
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit
- 112.156 Assets for Independence Program

SUBPART H: PAYMENT AMOUNTS

Section

- 112.250 Grant Levels
- 112.251 Payment Levels
- 112.252 Payment Levels in Group I Counties
- 112.253 Payment Levels in Group II Counties
- 112.254 Payment Levels in Group III Counties
- 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section

- 112.300 Persons Who May Be Included in the Assistance Unit
- 112.301 Presumptive Eligibility
- 112.302 Reporting Requirements for Clients with Earnings
- 112.303 Budgeting
- 112.304 Budgeting Schedule
- 112.305 Strikers
- 112.306 Foster Care Program
- 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parents Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Facilities (Repealed)

SUBPART J: CHILD CARE

Section

112.350	Child Care (Repealed)
112.352	Child Care Eligibility (Repealed)
112.354	Qualified Provider (Repealed)
112.356	Notification of Available Services (Repealed)
112.358	Participant Rights and Responsibilities (Repealed)
112.362	Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364	Rates of Payment for Child Care (Repealed)
112.366	Method of Providing Child Care (Repealed)
112.370	Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section

112.400	Transitional Child Care Eligibility (Repealed)
112.404	Duration of Eligibility for Transitional Child Care (Repealed)
112.406	Loss of Eligibility for Transitional Child Care (Repealed)
112.408	Qualified Child Care Providers (Repealed)
112.410	Notification of Available Services (Repealed)
112.412	Participant Rights and Responsibilities (Repealed)
112.414	Child Care Overpayments and Recoveries (Repealed)
112.416	Fees for Service for Transitional Child Care (Repealed)
112.418	Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. 10462, effective July 6, 2007; amended at 31 Ill. Reg. 15080, effective October 24, 2007; amended at 32 Ill. Reg. 2767, effective February 7, 2008; emergency amendment at 32 Ill. Reg. 10607, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17167, effective October 20, 2008; preemptory amendment at 32 Ill. Reg. 18051, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4977, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7320, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12763, effective September 8, 2009; amended at 33 Ill. Reg. 13831, effective September 17, 2009; amended at 33 Ill. Reg. 16828, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6930, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 10085, effective July 1, 2010; amended at 35 Ill. Reg. 998, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6933, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17082, effective October 5, 2011; amended at 35 Ill. Reg. 18739, effective October 28, 2011; amended at 36 Ill. Reg. 15120, effective September 28, 2012; emergency amendment at 37 Ill. Reg. 15388, effective September 9, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 4441, effective January 29, 2014; amended at 38 Ill. Reg. 17603, effective August 8, 2014; amended at 38 Ill. Reg. 18646, effective August 29, 2014; amended at 39 Ill. Reg. 15563, effective December 1, 2015; amended at 41 Ill. Reg. 395, effective January 1, 2017; amended at 42 Ill. Reg. 8295, effective May 4, 2018; emergency amendment at 42 Ill. Reg. 18495, effective October 1, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 327, effective December 20, 2018.

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Section 112.110 Exempt Unearned Income

The following unearned income shall be exempt from consideration in determining eligibility and the level of assistance payment:

- a) The value of the benefit allotment under the Food and Nutrition Act of 2008 (7 USC 2017(b));
- b) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
- c) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
- d) Any funds distributed per capita to or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, P.L. 94-114 or P.L. 94-540;
- e) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
- f) Any compensation provided to individual volunteers under the Volunteers in Service to America (VISTA) Program (known as AmeriCorps VISTA). Payments made under Americorps State/National programs, funded under the National and Community Service Act of 1993, are not exempt. Stipends or living allowance payments made under this program are considered nonexempt earned income. These payments are subject to the general rules concerning the budgeting of earned income;
- g) Income received under the provisions of Section 4(c) of the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25/4]. This includes both the benefits commonly known as the circuit breaker and additional grants;
- h) Payments for supporting services or reimbursement for out-of-pocket expenses made to volunteers serving as senior health aides, senior companions, foster grandparents, and persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of P.L. 93-113;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- i) Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances received through the Workforce Investment Act (WIA);
- j) Social Security death benefit expended on a funeral and/or burial;
- k) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC 1780(b)) and the special food service program for children under the Richard B. Russell National School Lunch Act, as amended (42 USC 1760);
- l) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (43 USC 1626);
- m) Payments received under Title I of P.L. 100-383 of the Civil Liberties Act of 1988 (50 USC 1989b through 1989b-8);
- n) Payments received under Title II of P.L. 100-383 of the Aleutian and Pribilof Islands Restitution Act (50 USC 1989c through 1989c-8);
- o) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump-sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
- p) Payments received under the federal Radiation Exposure Compensation Act (42 USC 2210 nt);
- q) Federal subsidized housing payments under section 8 of the Housing and Community Development Act (42 USC 1437f);
- r) Any adoption subsidy payment or foster care payment received from DCFS or from a state welfare agency of another state are exempt for MAG and MANG. Independent Living Arrangement Payments are not exempt for MAG and MANG;
- s) Supportive Service payments (Section 112.82);
- t) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2605(f) of P.L. 97-35;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- u) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
- v) Any payment provided by the Department of Human Services under the Family Assistance Program for Children with Mental Disabilities [405 ILCS 80/Art. III];
- w) A nonrecurring lump-sum SSI or SSA payment made to an individual in a TANF assistance unit. The nonrecurring SSA lump sum is exempt if it is based on disability. The monthly amount, up to the monthly SSI level for one, is exempt. For those individuals not in a TANF assistance unit whose income is used to determine TANF eligibility for others (for example, the parent of a person under age 18 who is receiving assistance as a parent), the lump-sum payment is nonexempt income for the month received;
- x) Payments made to individuals because of their status as victims of Nazi persecution pursuant to P.L. 103-286;
- y) Payments to a member of the Passamquoddy Indian Tribe, the Penobscot Nation of the Houlton Band of the Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980;
- z) Up to \$2000 per year of income received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands pursuant to Section 13736 of P.L. 103-66;
- aa) Payments based on disability status are disregarded in an amount up to the Supplemental Security Income (SSI) payment level for one person with no income. This disregard applies to disability benefits from Social Security (including SSI), Railroad Retirement Disability, Department of Veterans' Affairs (100% disability only) and Black Lung;
- bb) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund);
- cc) Inconsequential income, which is defined as gifts, prizes or other unearned income (excluding that which is otherwise exempted in this Section) of up to \$50 per person per quarter;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- dd) The value of home produce that is used for personal consumption;
- ee) Child support payments made to an assistance unit by the Department or non-custodial parent that represent the first \$100 or any lesser amount of support collected in a month for a family with one child, or \$200 or any lesser amount of support collected in a month for a family with two or more children;
- ff) Three dollars of every \$4 of excess child support distributed by the child support agency to a family with earnings budgeted. This includes the wage supplementation programs of on-the-job training, Job Corps, AmeriCorps VISTA, and work study;
- gg) Payments from the principal or trust of a trust fund made to or on behalf of a dependent child when the court orders the money released for a specific purpose other than the income maintenance needs of the child;
- hh) Earmarked child support payments received by the client for the support of a child not included in the assistance unit;
- ii) Cash that is exchanged for purposes of satisfying payment of shelter-related obligations in situations in which the assistance unit shares a dwelling unit with another family, individual or individuals. The money is not available to meet the needs of the party who received and disburses the shelter-related payment;
- jj) Employment-related reimbursements for past or future expenses to the extent that they do not exceed actual expenses incurred and do not represent a gain or benefit to the client;
- kk) All educational loans, grants, scholarships, fellowships, veteran's educational benefits, and federal and State work study programs; and
- ll) Achieving a Better Life Experience (ABLE) accounts – All earnings on ABLE accounts are exempt. The balance of this account is to be exempt unearned income.

(Source: Amended at 43 Ill. Reg. 327, effective December 20, 2018)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Aid to the Aged, Blind or Disabled
- 2) Code Citation: 89 Ill. Adm. Code 113
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
113.113	Amendment
113.141	Amendment
- 4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13] and PA 99-145.
- 5) Effective Date of Rules: December 20, 2018
- 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 rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 14279; August 3, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of rulemaking: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for AABD.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section

- 113.1 Description of the Assistance Program
- 113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.9 Client Cooperation
- 113.10 Citizenship
- 113.20 Residence
- 113.30 Age
- 113.40 Blind
- 113.50 Disabled
- 113.60 Living Arrangement
- 113.70 Institutional Status
- 113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 113.100 Unearned Income
- 113.101 Budgeting Unearned Income
- 113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
- 113.103 Initial Receipt of Unearned Income
- 113.104 Termination of Unearned Income
- 113.105 Unearned Income In-Kind
- 113.106 Earmarked Income
- 113.107 Lump Sum Payments and Income Tax Refunds
- 113.108 Protected Income (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 113.109 Earned Income (Repealed)
- 113.110 Budgeting Earned Income (Repealed)
- 113.111 Protected Income
- 113.112 Earned Income
- 113.113 Exempt Unearned Income
- 113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
- 113.115 Initial Employment
- 113.116 Budgeting Earned Income For Contractual Employees
- 113.117 Budgeting Earned Income For Non-contractual School Employees
- 113.118 Termination of Employment
- 113.120 Exempt Earned Income
- 113.125 Recognized Employment Expenses
- 113.130 Income From Work/Study/Training Programs
- 113.131 Earned Income From Self-Employment
- 113.132 Earned Income From Roomer and Boarder
- 113.133 Earned Income From Rental Property
- 113.134 Earned Income In-Kind
- 113.139 Payments from the Illinois Department of Children and Family Services
- 113.140 Assets
- 113.141 Exempt Assets
- 113.142 Asset Disregard
- 113.143 Deferral of Consideration of Assets
- 113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
- 113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
- 113.156 Court Ordered Child Support Payments of Parent/Step-Parent
- 113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
- 113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
- 113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

- Section
- 113.245 Payment Levels for AABD
- 113.246 Personal Allowance
- 113.247 Personal Allowance Amounts
- 113.248 Shelter

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

113.249	Utilities and Heating Fuel
113.250	Laundry
113.251	Telephone
113.252	Transportation, Lunches, Special Fees
113.253	Allowances for Increase in SSI Benefits
113.254	Nursing Care or Personal Care in Home Not Subject to Licensing
113.255	Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256	Shopping Allowance
113.257	Special Allowances for Blind and Partially Sighted (Blind Only)
113.258	Home Delivered Meals
113.259	AABD Fuel and Utility Allowances By Area
113.260	Sheltered Care, Personal Care or Nursing Care Rates
113.261	Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262	Meeting the Needs of an Ineligible Dependent with Client's Income
113.263	Service Animals
113.264	Refugees Ineligible for SSI

SUBPART E: OTHER PROVISIONS

Section	
113.300	Persons Who May Be Included In the Assistance Unit
113.301	Grandfathered Cases
113.302	Interim Assistance (Repealed)
113.303	Special Needs Authorizations
113.304	Retrospective Budgeting
113.305	Budgeting Schedule
113.306	Purchase and Repair of Household Furniture (Repealed)
113.307	Property Repairs and Maintenance
113.308	Excess Shelter Allowance
113.309	Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320	Redetermination of Eligibility
113.330	Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section	
113.400	Description of the Interim Assistance Program

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 113.405 Pending SSI Application (Repealed)
- 113.410 More Likely Than Not Eligible for SSI (Repealed)
- 113.415 Non-Financial Factors of Eligibility (Repealed)
- 113.420 Financial Factors of Eligibility (Repealed)
- 113.425 Payment Levels for Chicago Interim Assistance Cases (Repealed)
- 113.430 Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
- 113.435 Medical Eligibility (Repealed)
- 113.440 Attorney's Fees for SSI Applicants (Repealed)
- 113.445 Advocacy Program for Persons Receiving Interim Assistance (Repealed)
- 113.450 Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
- 113.500 Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, 1983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, 1984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, 1984; amended at 8 Ill. Reg. 13273, effective July 16, 1984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. 6981, effective April 30, 2007; amended at 31 Ill. Reg. 11306, effective July 19, 2007; amended at 32 Ill. Reg. 17187, effective October 16, 2008; peremptory amendment at 32 Ill. Reg. 18065, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4993, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7337, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12775, effective September 8, 2009; emergency amendment at 33 Ill. Reg. 12850, effective September 4, 2009, for a maximum of 150 days; emergency expired January 31, 2010; amended at 33 Ill. Reg. 13846, effective September 17, 2009; amended at 33 Ill. Reg. 15033, effective October 22, 2009; amended at 33 Ill. Reg. 16845, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6944, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7255, effective May 10, 2010; amended at 35 Ill. Reg. 1012, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6951, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17096, effective October 5, 2011; amended at 35 Ill. Reg. 18756, effective October 28, 2011; amended at 36 Ill. Reg. 15195, effective October 5, 2012; emergency

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

amendment at 36 Ill. Reg. 17567, effective December 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 8728, effective June 11, 2013; amended at 37 Ill. Reg. 14876, effective August 27, 2013; amended at 38 Ill. Reg. 16229, effective July 18, 2014; emergency amendment at 38 Ill. Reg. 17470, effective July 30, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 22654, effective November 20, 2014; amended at 39 Ill. Reg. 13260, effective September 21, 2015; amended at 41 Ill. Reg. 10331, effective July 21, 2017; amended at 42 Ill. Reg. 16195, effective August 7, 2018; amended at 43 Ill. Reg. 343, effective December 20, 2018.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 113.113 Exempt Unearned Income

- a) The following unearned income from governmental sources shall be exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
 - 1) The value of the benefit allotment under the Food and Nutrition Act of 2008 (7 USC 2017(b));
 - 2) The value of the U.S. Department of Agriculture donated foods (surplus commodities);
 - 3) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended (42 USC 1780(b)), and the special food service program for children under the Richard B. Russell National School Lunch Act, as amended (42 USC 1760);
 - 4) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
 - 5) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4636);
 - 6) Any funds distributed per capita or held in trust for members of any Indian Tribe under P.L. 92-254, P.L. 93-134, or P.L. 94-540;
 - 7) Tax exempt portions of payments made pursuant to the Alaska Native Claims Settlement Act (42 USC 1601 et seq.);

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 8) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title VI of the Older Americans Act of 1965, as amended (42 USC 3045 et seq.);
- 9) Payments to Volunteers under the 1973 Domestic Volunteer Service Act (48 USC 5044(q)). These include:
 - A) Vista Volunteers; and
 - B) Volunteers serving as senior health aides, senior companions, foster grandparents, or persons serving in the Service Corps of Retired Executives (SCOPE) or the Active Corps of Executives (ACE);
- 10) Income received under the provisions of Section 1 of the Illinois Senior Citizens and Disabled Persons Property Tax Relief Act [320 ILCS 25/1]. This includes both the benefits commonly known as the "circuit breaker" and "additional grants";
- 11) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975 under Section 23 of the U.S. Housing Act of 1937, as amended (42 USC 1437(f));
- 12) Any payments distributed per capita or held in trust for members of Indian tribes under Sections 5 of P.L. 94-114 that became effective October 17, 1975;
- 13) SSI lump sum payments received by MANG participants who reside in the community (not residing in a long term care facility, DMHDD facility or other medical facility);
- 14) Any adoption subsidy received from DCFS;
- 15) Any foster care payment received from DCFS except independent living arrangement payments;
- 16) Title IV-E adoption assistance or foster care payment received from a state

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

welfare agency of another state are exempt for MANG;

- 17) Any payment received from the Self Sufficiency Trust Fund established in accordance with Section 21.1 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/21.1];
- 18) Any payment received under Title I of P.L. 100-383, the Civil Liberties Act of 1988, which provides that restitution shall be made to United States citizens and permanent resident aliens of Japanese ancestry who were interned during World War II;
- 19) Any payment received under Title II of P.L. 100-383, the Aleutian and Pribilof Islands Restitution Act, which provides that restitution shall be made to any Aleut living on the date of enactment of P.L. 100-383 (August 10, 1988) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location during World War II; or who was born while his or her natural mother was subject to such relocation;
- 20) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one-time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201;
- 21) Payments received under the Radiation Exposure Compensation Act (42 USC 2210);
- 22) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) (see 42 USC 1382a);
- 23) Earnings, allowances, and payments received under Title I of the National and Community Service Act of 1990 (42 USC 12501);
- 24) Disaster relief payments provided by federal, state or local government or a disaster assistance organization;
- 25) The amount of earned income tax credit which the client receives as advance payment or as a refund of federal income tax;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 26) German reparation payments made under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution (Germany Restitution Act) to survivors of the Holocaust (see 20 CFR 416.1124b) (2009);
 - 27) Payments of up to \$2000 per year derived from individual interests in Indian trust or restricted lands under P.L. 103-66;
 - 28) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund);
 - 29) The \$25 per week increase in Unemployment Compensation Benefits authorized under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2002 of P.L. 111-5);
 - 30) The Economic Recovery Payment to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veterans Disability Compensation or Pension Benefits authorized under the American Recovery and Reinvestment Act of 2009 (Div. B, Title II, Sec. 2001 of P.L. 111-5); ~~and~~
 - 31) Payments to eligible persons who served in the United States Armed Forces in the Far East during World War II authorized under the American Recovery and Reinvestment Act of 2009 (Div. A, Title X, Sec. 1002 of P.L. 111-5); ~~and-~~
 - 32) [Achieving a Better Life Experience \(ABLE\) account balance and earnings.](#)
- b) In addition to the unearned income listed in subsection (a), the following unearned income from non-governmental sources shall be exempt from consideration in determining eligibility for assistance and amount of the assistance payment:
- 1) The value of home produce which is used for personal consumption; and
 - 2) Social Security death benefit expended on a funeral and/or burial.

(Source: Amended at 43 Ill. Reg. 343, effective December 20, 2018)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 113.141 Exempt Assets

- a) The following assets are exempt from consideration in determining eligibility for assistance and the amount of the assistance payment:
- 1) Homestead property.
 - 2) Personal Property
 - A) Personal effects extraordinarily and household goods of reasonable value (reasonable value means the client's equity value in the property does not exceed \$2,000). Wedding and engagement rings and items required due to medical or physical condition.
 - B) Regardless of the value, personal effects and household goods are exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).
 - 3) Resources (for example, land, buildings, equipment and supplies or tools) necessary for self-support up to \$6,000 of the individual's equity in the income producing property, provided the property produces a net annual income of at least 6% of the excluded equity value of the property. The equity value in excess of \$6,000 is applied toward the asset disregard. If the activity produces income less than 6% of the exempt equity due to reasons beyond the individual's control (for example, the individual's illness or crop failure) and there is a reasonable expectation that the individual's activity will increase to produce income equal to 6% of the equity value (for example, the medical prognosis is that the individual is expected to respond to treatment or drought resistance corn will be planted), the property is exempt. If the individual owns more than one piece of property and each produces income, each is looked at to see if the 6% rule is met and then the amount of the individual's equity in all of those properties are totaled to see if the total equity is \$6,000 or less.
 - 4) Automobile
 - A) exclude one automobile, regardless of value, used by the client,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

spouse, or other dependent if:

- i) it is necessary for employment;
 - ii) it is necessary for the medical treatment of a specific or regular medical problem;
 - iii) it is modified for operation by or transportation of a handicapped person;
 - iv) it is necessary because of factors such as climate, terrain or distance to provide necessary transportation to perform essential daily activities; or
 - v) one vehicle for each spouse is exempt in determining the amount allowed as the Community Spouse Asset Allowance (as described at 89 Ill. Adm. Code 120.386).
- B) if not excluded in subsection (a)(4)(A), exclude one automobile to the extent the fair market value does not exceed \$4,500. Apply the excess fair market value toward the asset disregard (see Section 113.142). The Department will determine fair market value in accordance with 89 Ill. Adm. Code 121.57(b)(2)(D)(iv).
- C) for all other automobiles, apply the equity value (fair market value minus any encumbrance) toward the asset disregard (see Section 113.142).
- 5) Life insurance policies with a total face value of \$1,500 or less and all term life insurance policies. If total face value exceeds \$1,500, the cash surrender value must be counted as a resource.
- b) Burial spaces and funds are exempt as follows:
- 1) Burial spaces that are intended for the use of the individual, his or her spouse, or any other member of his or her immediate family. Immediate family is defined as an individual's minor and adult children, including adopted children and step-children, an individual's brothers, sisters, parents, adoptive parents, and the spouses of these individuals.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) Funds set aside for the burial expenses of the individual and his or her spouse, subject to a limit of \$1,500 each. This limit will be reduced by the face value of any excluded life insurance policy and the amount of any funds held in an irrevocable trust or other irrevocable arrangement that are available for burial expenses.
 - 3) Interest earned on excluded burial funds and appreciation in the value of excluded burial arrangements that occurred the earlier of the date of first SSI eligibility or the date of AABD eligibility, but no earlier than November 1, 1982 (see 20 CFR 416.1231(b)(5) (2009)).
 - 4) Funds specifically and irrevocably set aside for the professional funeral services and burial expenses of the individual and his or her spouse, subject to a limit of \$5,874 each, including prepaid funeral and burial plans. This amount will be adjusted annually for any increase in the Consumer Price Index for All Urban Users (CPI-U).
- c) Assets necessary for fulfillment of an approved plan for achieving self support.
 - d) Trust funds are exempt as follows:
 - 1) The principal of a trust fund only when the instrument establishing the trust specifically states the principal cannot be impaired.
 - 2) The principal of a trust fund established under the Self Sufficiency Trust Fund Program [20 ILCS 1705/21.1].
 - e) Assets excluded by express provision of 20 CFR 416.1236 (2009).
 - f) Donations or benefits from fund raisers held for a seriously ill client provided the client or a responsible relative of the client does not have control (for example, not available to the client or the responsible relative) over the donations or benefits or the disbursement of donations or benefits.
 - g) Payments made to veterans who receive an annual disability payment or to the survivors of deceased veterans who receive a one time lump sum payment from the Agent Orange Settlement Fund or any other fund referencing Agent Orange product liability under P.L. 101-201.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- h) Money received from the Social Security Administration under a Plan to Achieve Self-Support (PASS) and held in a separate account.
- i) Disaster relief payments provided by federal, state or local government or a disaster assistance organization.
- j) The amount of earned income tax credit that the client receives as advance payment or as a refund of federal income tax.
- k) The Economic Recovery Payment to recipients of Social Security, Supplemental Security Income (SSI), Railroad Retirement Benefits, and Veterans Disability Compensation or Pension Benefits authorized under section 2201 of the American Recovery and Reinvestment Act of 2009 (26 USC 6428 note).
- l) Payments to eligible persons who served in the United States Armed Forces in the Far East during World War II authorized under section 1002 of the American Recovery and Reinvestment Act of 2009 (38 USC 107 note).
- m) [Achieving a Better Life Experience \(ABLE\) account balance and earnings.](#)

(Source: Amended at 43 Ill. Reg. 343, effective December 20, 2018)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Supplemental Nutrition Assistance Program (SNAP)
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.57 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13] and PA 99-145.
- 5) Effective Date of Rule: December 20, 2018
- 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 rule, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 14296; August 3, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Pursuant to PA 99-145, this rulemaking adds Achieving a Better Life Experience (ABLE) accounts as a type of unearned income and assets exempt from consideration in determining eligibility and level of assistance for SNAP.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Periods of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomers or Boarders
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Supplemental Nutrition Assistance Program (SNAP) Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Categorically Eligible Households

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)
121.84	Disqualification Upon Finding of Fraud (Renumbered)
121.85	Court Imposed Disqualification (Renumbered)
121.90	Monthly Reporting and Retrospective Budgeting (Repealed)
121.91	Monthly Reporting (Repealed)
121.92	Budgeting
121.93	Issuance of Food Stamp Benefits
121.94	Replacement of the EBT Card or SNAP Benefits
121.95	Restoration of Lost Benefits
121.96	Uses for SNAP Benefits
121.97	Supplemental Payments
121.98	Client Training Brochure for the Electronic Benefits Transfer (EBT) System
121.105	State Food Program (Repealed)
121.107	New State Food Program
121.108	Transitional Food Stamp (TFS) Benefits
121.117	Farmers' Market Technology Improvement Program
121.120	Redetermination of Eligibility
121.125	Simplified Reporting
121.130	Residents of Shelters for Battered Women and their Children
121.131	Fleeing Felons and Probation/Parole Violators
121.135	Incorporation By Reference
121.136	Food and Nutrition Act of 2008
121.140	Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145	Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section	
121.150	Definition of Intentional Violations of the Program
121.151	Penalties for Intentional Violations of the Program
121.152	Notification To Applicant Households
121.153	Disqualification Upon Finding of Intentional Violation of the Program
121.154	Court Imposed Disqualification

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

- 121.160 Persons Required to Participate
- 121.162 Program Requirements
- 121.163 Vocational Training
- 121.164 Orientation (Repealed)
- 121.165 Community Work
- 121.166 Assessment and Employability Plan (Repealed)
- 121.167 Counseling/Prevention Services
- 121.170 Job Search Activity
- 121.172 Basic Education Activity
- 121.174 Job Readiness Activity
- 121.176 Work Experience Activity
- 121.177 Illinois Works Component (Repealed)
- 121.178 Job Training Component (Repealed)
- 121.179 JTPA Employability Services Component (Repealed)
- 121.180 Grant Diversion Component (Repealed)
- 121.182 Earnfare Activity
- 121.184 Sanctions for Non-cooperation with Food Stamp Employment and Training
- 121.186 Good Cause for Failure to Cooperate
- 121.188 Supportive Services
- 121.190 Conciliation
- 121.200 Types of Claims (Recodified)
- 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
- 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
- 121.203 Collecting Claim Against Households (Recodified)
- 121.204 Failure to Respond to Initial Demand Letter (Recodified)
- 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
- 121.206 Determination of Monthly Allotment Reductions (Recodified)
- 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
- 121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

- 121.220 Work Requirement Components (Repealed)
- 121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991;

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum of 150 days; emergency expired July 23, 2009; preemptory amendment at 33 Ill. Reg. 5537,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

effective April 1, 2009; emergency amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; emergency expired December 16, 2009; amended at 33 Ill. Reg. 12802, effective September 3, 2009; amended at 33 Ill. Reg. 14121, effective September 22, 2009; emergency amendment at 33 Ill. Reg. 14627, effective October 13, 2009, for a maximum of 150 days; emergency expired March 11, 2010; amended at 33 Ill. Reg. 16875, effective November 30, 2009; amended at 33 Ill. Reg. 17350, effective December 14, 2009; amended at 34 Ill. Reg. 4777, effective March 17, 2010; amended at 34 Ill. Reg. 5295, effective April 12, 2010; amended at 34 Ill. Reg. 5823, effective April 19, 2010; emergency amendment at 34 Ill. Reg. 6967, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7265, effective May 10, 2010; amended at 34 Ill. Reg. 7685, effective May 18, 2010; amended at 34 Ill. Reg. 12547, effective August 11, 2010; preemptory amendment at 34 Ill. Reg. 15543, effective October 1, 2010; amended at 35 Ill. Reg. 1042, effective December 28, 2010; amended at 35 Ill. Reg. 7688, effective April 29, 2011; amended at 35 Ill. Reg. 10119, effective June 7, 2011; preemptory amendment at 35 Ill. Reg. 16118, effective October 1, 2011; preemptory amendment at 35 Ill. Reg. 16904, effective October 1, 2011; amended at 35 Ill. Reg. 17120, effective October 5, 2011; amended at 35 Ill. Reg. 18780, effective October 28, 2011; amended at 35 Ill. Reg. 19278, effective November 8, 2011; amended at 35 Ill. Reg. 19778, effective December 5, 2011; preemptory amendment at 36 Ill. Reg. 15148, effective October 1, 2012; emergency amendment at 37 Ill. Reg. 15423, effective September 9, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 16016, effective October 1, 2013; emergency amendment at 37 Ill. Reg. 16845, effective October 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 17983, effective November 1, 2013; amended at 38 Ill. Reg. 4475, effective January 29, 2014; amended at 38 Ill. Reg. 5382, effective February 7, 2014; emergency amendment at 38 Ill. Reg. 8414, effective April 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 17616, effective August 8, 2014; preemptory amendment at 38 Ill. Reg. 19831, effective October 1, 2014; amended at 39 Ill. Reg. 6470, effective April 22, 2015; preemptory amendment at 39 Ill. Reg. 13513, effective October 1, 2015; amended at 39 Ill. Reg. 15577, effective December 1, 2015; amended at 40 Ill. Reg. 360, effective January 1, 2016; preemptory amendment at 40 Ill. Reg. 14114, effective October 1, 2016; preemptory amendment at 41 Ill. Reg. 12905, effective October 1, 2017; amended at 42 Ill. Reg. 8310, effective May 4, 2018; amended at 42 Ill. Reg. 8505, effective May 8, 2018; preemptory amendment at 42 Ill. Reg. 18531, effective October 1, 2018; amended at 43 Ill. Reg. 360, effective December 20, 2018.

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.57 Assets

- a) The value of nonexempt assets shall be considered in determining eligibility only

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

if a household is not categorically eligible (see Section 121.76).

b) Value of Nonexempt Assets

1) The value of nonexempt assets is the equity value (fair market value less the amount owed), except for prepaid funeral agreements valued over \$1500.

2) The Department considers the following assets in determining eligibility:

A) Liquid Assets

i) Liquid assets are those properties in the form of cash or other financial instruments that are convertible to cash, such as, but not limited to, cash on hand, money, in checking or savings accounts, credit union accounts, savings certificates, stocks or bonds, lump-sum payments, and prepaid funeral agreements.

ii) Exempt any retirement funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan account as provided in section 8439 of title 5, United States Code. Exempt any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code. [Exempt any funds and earnings from an Achieving a Better Life Experience \(ABLE\) account.](#)

B) Nonliquid Assets

Nonliquid assets are those properties that are not in the form of cash or other financial instruments, such as personal property, licensed vehicles, unlicensed vehicles, buildings, land, recreational properties, and any other property not specifically exempted in Section 121.58.

C) Assets of Sponsors of Aliens

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Consider the assets of the sponsor and the sponsor's spouse who sponsored an alien on or after February 1, 1983 (7 CFR 272.1(g)(54) (2012)) in accordance with Section 121.55.

- D) Prepaid Funeral Agreements
The value of prepaid funeral agreements over \$1500 per person is considered.

(Source: Amended at 43 Ill. Reg. 360, effective December 20, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Prior Notification of Transactions
- 2) Code Citation: 50 Ill. Adm. Code 654
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
654.10	Amendment
654.20	Amendment
654.30	Amendment
654.40	Amendment
654.50	New Section
654.ILLUSTRATION A	Amendment
- 4) Statutory Authority: Implementing Article VIII ½ and authorized by Sections 131.20a(1) and 401 of the Illinois Insurance Code [215 ILCS 5/VIII ½, 131.20a(1) and 401].
- 5) Effective Date of Rules: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17316; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 654.20, after the definition of "Executive officer", added "'NAIC" means the National Association of Insurance Commissioners".

In 654.30(c)(2)(C), 2nd line, changed "most current requirements" to "2018 edition"; changed 3rd line to "NAIC"; 4th line, before the semicolon added "available at https://www.naic.org/prod_serv_alpha_listing.htm; this incorporation by reference does not include any subsequent editions or amendments".

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Article VIII ½ of the Illinois Insurance Code (Insurance Holding Company Systems) was amended by PA 98-0609. The changes to Illinois statutes were made based on the NAIC Model Law #440, which was passed in December 2010.

Changes to Part 654 are based on updated requirements of the Model Law. Section 654.30 provides significant new requirements for provisions to be included in affiliated cost sharing and management agreements and also minimum requirements for tax allocation agreements. New Section 654.50 adds a severability clause to the rule. The 654 Illustration of a Form D-1 includes updated additional informational requests for affiliated transactions, an updated requirement for affiliated reinsurance transactions (the Model Law excludes some affiliated reinsurance agreements that are considered immaterial) and the addition of tax allocation agreements.

The amendments also add definitions of "Code," "Department," and "Director" to facilitate the economical use of language throughout this Part.

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

Eric Moser, Assistant Deputy Director
Financial Regulation
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/557-3759

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER g: INSURANCE HOLDING COMPANY SYSTEMSPART 654
PRIOR NOTIFICATION OF TRANSACTIONS

Section

654.10	Purpose
654.20	Definitions
654.30	Prior Notification of Transactions – Required Information
654.40	Penalties
654.50	Severability Provision

654.ILLUSTRATION A Form D-1

AUTHORITY: Implementing Article VIII½ and authorized by Sections 131.20a(1) and 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Emergency rule adopted at 10 Ill. Reg. 2105, effective January 1, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 17168, effective October 1, 1986; emergency amendment at 17 Ill. Reg. 21198, effective November 30, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 6176, effective April 6, 1994; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; transferred from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-4 on June 1, 2009; recodified from 50 Ill. Adm. Code 854 to 50 Ill. Adm. Code 654 at 41 Ill. Reg. 145; amended at 43 Ill. Reg. 373, effective December 21, 2018.

Section 654.10 Purpose

The purpose of this Part is to describe ~~the~~~~that~~ information ~~that~~~~which~~ must be provided by a domestic company to notify the Director of certain transactions pursuant to Section 131.20a(1) of the ~~Illinois Insurance Code~~ ~~[215 ILCS 5/131.20a(1)]~~.

(Source: Amended at 43 Ill. Reg. 373, effective December 21, 2018)

Section 654.20 Definitions

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Terms found in this Part, other than those defined in this Section, are used as defined in Section 131.1 of the Code.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"Executive officer" means any individual charged with active management and control in a senior executive capacity as described by the company's by-laws (including a president, senior vice president, treasurer, secretary, controller, and any other individual regardless of title performing functions the same as those performed by the foregoing officers).

"NAIC" means the National Association of Insurance Commissioners.

(Source: Amended at 43 Ill. Reg. 373, effective December 21, 2018)

Section 654.30 Prior Notification of Transactions – Required Information

- a) Any domestic company required, pursuant to Section 131.20a(1) of the ~~Illinois Insurance Code~~, to notify the Director of a transaction between it and any person in its holding company system shall notify the Director of the transaction in writing at least 30 days prior to entering into ~~the such~~ transaction. ~~The such~~ notice shall be deemed incomplete unless it includes all the information required by this Part ~~has been included therein~~.
- b) The Director shall, within the 30 day period, disapprove ~~the such~~ transactions if the standards ~~as~~ contained in Section 131.20 of the ~~Illinois Insurance Code [215 ILCS 5/131.20]~~ have not been met.
- c) ~~The domestic company shall provide to the Director the information required by, and in the format specified by, Form D-1 which is Illustration A to this Part.~~ Transactions Subject to Prior Notice – Notice Filing ~~The notification shall be directed to the Deputy Director of the Financial Corporate Regulatory Division of the Illinois Department of Insurance, Springfield, Illinois 62767.~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) An insurer required to give notice of a proposed transaction pursuant to Section 131.20a(1) of the Code shall furnish the required information on Form D-1.
- 2) Agreements for cost sharing services and management services shall, at a minimum and as applicable:
 - A) Identify the person providing services and the nature of those services;
 - B) Set forth the methods to allocate costs;
 - C) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the 2018 edition of the NAIC Accounting Practices and Procedures Manual (available at https://www.naic.org/prod_serv_alpha_listing.htm; this incorporation by reference does not include any subsequent editions or amendments);
 - D) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
 - E) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
 - F) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
 - G) Specify that all books and records of the insurer are and remain the property of the insurer, are subject to control of the insurer, and will be made available to the Director;
 - H) State that all funds and invested assets of the insurer are the exclusive property of the insurer, are held for the benefit of the insurer, and are subject to the control of the insurer;
 - I) Include standards for termination of the agreement, with and without cause;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- J) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
- K) Specify that, if the insurer is placed in receivership or seized by the Director under Article XIII of the Code:
- i) all of the rights of the insurer under the agreement extend to the receiver or Director; and
 - ii) all books and records will immediately be made available to the receiver or the Director, and shall be turned over to the receiver or Director immediately upon the receiver's or the Director's request;
- L) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Article XIII of the Code; and
- M) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure pursuant to Article XIII of the Code, and will make them available to the receiver for as long as the affiliate continues to receive timely payment for services rendered.

(Source: Amended at 43 Ill. Reg. 373, effective December 21, 2018)

Section 654.40 Penalties

Failure of a company to timely file the report required by this Part and Section 131.20a of the ~~Illinois Insurance Code [215 ILCS 5/131.20a]~~ shall subject the company to the provisions of Sections 131.24 and 403A of the ~~Illinois Insurance Code [215 ILCS 5/131.24 and 403A]~~.

(Source: Amended at 43 Ill. Reg. 373, effective December 21, 2018)

Section 654.50 Severability Provision

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

If any Section or portion of a Section of this Part, or the applicability of that Section or portion of a Section to any person or circumstance, is held invalid by a court, the remainder of the Section or Part or the applicability of the provision to other persons or circumstances shall not be affected by that determination of invalidity.

(Source: Added at 43 Ill. Reg. 373, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Section 654.ILLUSTRATION A Form D-1

FORM D-1

GENERAL INSTRUCTIONS

- A. **Signature and Certification**
For purposes of filing the Form D-1, the signature and certification required by this Part shall be signed by an executive officer of the insurer requesting the Director's approval.
- B. **Copy of the Transaction Agreement**
A copy of the proposed transaction agreement shall be attached to the Form D-1 filing as Exhibit A. If the agreement is in other than final form, it shall be so identified.

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of Illinois

By

Name of Domestic Company

On Behalf of the Following Insurance Companies:

Name	Address
_____	_____
_____	_____
_____	_____

Date: _____, 20 ____

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Request Should Be Addressed:

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Item 1. Identity of Parties to the Transaction

Furnish the following information for each of the parties to the transaction:

- a) Name.
- b) Home ~~office address~~ Office Address.
- c) Principal executive office address.
- d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.
- e) A description of the nature of the parties' business operations.
- f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.
- g) ~~When~~ Where the transaction is with a non-affiliate, the ~~names~~ name(s) of the ~~affiliates that~~ affiliate(s) which will receive, in whole or in substantial part, the proceeds of the proposed transaction. For purposes of this subsection, "substantial part" means an amount ~~that~~ which would trigger disclosure if given directly to the affiliate.

Item 2. Description of the Transaction

Furnish the following information for each transaction for which notice is being given:

- a) A statement as to whether notice is being given under Section 131.20a(1)(a)(i), (ii), (iii), (iv), or (v) of the Illinois Insurance Code. ~~At the time of adoption of this rulemaking, the Department has not adopted a rule under subsection (v) above.~~
- b) A brief description of the nature and purpose of the transaction.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- c) A statement of how the transaction meets the "fair and reasonable" standard of Section 131.20(1)(a) of the Illinois Insurance Code; and
- d) The proposed effective date of the transaction.
- Item 3. Sales, Purchases, Exchanges, Loans, Extensions of Credit, Guarantees, or Investments-
- a) Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.
- b) If the transaction involves a loan, extension of credit or ~~a~~ guarantee, furnish a description of the maximum amount ~~that which~~ the insurer will be obligated to make available under ~~the such~~ loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.
- c) If borrowed funds are to be used by the insurer, identify the lender, any collateral requirements, interest due dates, interest rates, and principal payment due date.
- d) If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of ~~those such~~ investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.
- Item 4. Loans or Extensions of Credit to a Non-Affiliate

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding ~~by which~~ ~~whereby~~ the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

insurer making ~~those such~~ loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of, or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value, together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

Item 5. Reinsurance

- a) If the transaction is a reinsurance agreement or modification to that agreement~~hereto~~, or a reinsurance pooling agreement or modification to that agreement, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a description of any agreement or understanding that exists between the insurer and a non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.
- b) No notice need be given for reinsurance agreements or modifications to those agreements if the insurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification is less than 5% of the insurer's surplus as regards policyholders, as of the December 31 next preceding. Notice shall be given for all reinsurance pooling agreements, including modifications.

Item 6. Management Agreements, Service Agreements, ~~and~~ Cost Sharing Arrangements ~~and Tax Allocation Agreements~~Arrangements.

For management and service agreements, furnish:

- a) a brief description of the managerial responsibilities, or services to be performed; and;
- b) a brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- a) a brief description of the purpose of the agreement;
- b) a description of the period of time during which the agreement is to be in effect;
- c) a brief description of each party's expenses or costs covered by the agreement;
- d) a brief description of the accounting basis to be used in calculating each party's cost under the agreement;
- e) a brief statement as to the effect of the transaction upon the insurer's policyholder surplus;
- f) a statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market". If market based, include the rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- g) a statement regarding compliance with the NAIC Accounting Practices and Procedure Manual pertaining to expense allocation.

For tax allocation agreements, furnish:

- a) a description of the tax allocation method to be used; and
- b) a statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding the tax allocation agreement.

Pursuant to the requirements of Section 131.20a of the Illinois Insurance Code, _____
has caused this notice to be duly signed on its behalf in the City of _____ and State
of _____ on the _____ day of _____, 20 _____.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Name of Requesting Insurer

By

(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated _____, 20 _____, for and on behalf of _____; that (s)he is the _____
(Name of Insurer)

_____ of such company and that (s)he is authorized to execute and file such _____
(Title of Officer)

instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

(Source: Amended at 43 Ill. Reg. 373, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Correlated Sales of Life Insurance and Mutual Funds
- 2) Code Citation: 50 Ill. Adm. Code 910
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
910.10	Repealed
910.20	Repealed
910.30	Repealed
910.40	Repealed
910.50	Repealed
910.60	Repealed
910.70	Repealed
910.80	Repealed
910.90	Repealed
910.100	Repealed
910.110	Repealed
- 4) Statutory Authority: Implementing Sections 149, 236, 237, 429, and 502 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 761, 848, 849, 1036, 1065.49 and 1013).
- 5) Effective Date of Repealer: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17336; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 910 was identified for repeal as redundant and unnecessary during the Department of Insurance's extensive review of its regulations under Governor Rauner's "Cutting the Red Tape Initiative" to ensure that our administrative rules are up to date and reflect current Department practices and functions; use plain language where appropriate; do not cause undue administrative delay or backlog; are not unduly burdensome to businesses; and are statutorily authorized. Part 910 has been repealed as it was initially drafted in 1964 and is no longer needed for staff to maintain the requisite compliance and consumer protection related duties.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Arlene Mehsling, Assistant Deputy Director
Life and Annuity Compliance
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/785-9022

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Minimum Standards of Individual Accident and Health Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2007
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
2007.30	Amendment
2007.80	Amendment
- 4) Statutory Authority: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401] and 42 USC 300gg-22; 45 CFR 150.101(b)(2) and 150.201.
- 5) Effective Date of Rules: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17349; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part of Section 2007.80(a)(11) was added to mirror an attestation requirement for consumers that was passed in a 2014 federal CMS regulation, which has since been enjoined by *Central United Life Ins. Co. v. Burwell*, 827 F. 3d 70 (D.C. Cir. 2016). The provision requires consumers applying for individual

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

hospital or other fixed indemnity insurance to attest to being either enrolled in or legally treated as having "minimum essential coverage" under federal law. The attestation requirement is an unnecessary regulatory burden on Illinois businesses where consumers are already notified at the time of application that hospital and other fixed indemnity coverage does not qualify as minimum essential coverage. The language of this attestation requirement will be deleted from the rule. Also, non-substantive technical edits were made to the phrasing of Section 2007.30.

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

Sara Stanberry, Health Products Advisor
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/558-3396

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCEPART 2007
MINIMUM STANDARDS OF INDIVIDUAL ACCIDENT
AND HEALTH INSURANCE

Section	
2007.10	Authority
2007.20	Purpose
2007.30	Applicability
2007.40	Revision of Noncomplying Policy Form and Subscriber Contracts Certificate of Compliance Required
2007.50	Definitions
2007.60	Prohibited Policy Provisions
2007.70	Accident and Health Minimum Standards for Benefits
2007.80	Required Disclosure Provisions
2007.90	Requirements for Replacement
2007.100	Severability

AUTHORITY: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401] and 42 USC 300gg-22; 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Adopted at 2 Ill. Reg. 30, p. 41, effective August 1, 1978; amended at 4 Ill. Reg. 45, p. 102, effective March 1, 1981; amended at 6 Ill. Reg. 7072, effective May 27, 1982; codified at 7 Ill. Reg. 10591; amended at 12 Ill. Reg. 6921, effective April 1, 1988; amended at 15 Ill. Reg. 7658, effective May 7, 1991; amended at 19 Ill. Reg. 16555, effective December 5, 1995; amended at 38 Ill. Reg. 2138, effective January 2, 2014; amended at 38 Ill. Reg. 23400, effective November 25, 2014; amended at 43 Ill. Reg. 388, effective December 21, 2018.

Section 2007.30 Applicability

- a) This Part ~~applies~~~~shall apply~~ to all individual accident and health insurance policies except that it ~~does~~~~shall~~ not apply to individual policies issued pursuant to a conversion privilege under a policy of group or individual insurance when ~~the~~~~such~~ individual policy includes provisions ~~that~~~~which~~ are inconsistent with the requirements of this Part, nor to policies being issued to employees or members as

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

additions to franchise plans in existence prior to July 17, 1978.

- b) The requirements contained in this Part ~~are~~ shall be in addition to any other applicable regulations.

(Source: Amended at 43 Ill. Reg. 388, effective December 21, 2018)

Section 2007.80 Required Disclosure Provisions

- a) General Rules
- 1) Each individual policy of accident and health insurance shall include a renewal, continuation or nonrenewal provision. The language or specifications of the provision must be consistent with the requirements of 50 Ill. Adm. Code 2001.Subpart A and the type of plan issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, when limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.
 - 2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to by the insured, except if the increased benefits or coverage is required by law.
 - 3) When a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.
 - 4) A policy that provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import shall include a definition of those terms and an explanation of those terms in its accompanying outline of coverage.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 5) If a policy providing excepted benefits or a grandfathered health plan contains any limitations with respect to preexisting conditions, those limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations".
- 6) All accident only policies shall contain a prominent statement on the first page of the policy or attached to the policy in either contrasting color or in boldface type at least equal to the size of type used for policy captions, a prominent statement as follows:

"This is an accident only policy and it does not pay benefits for loss from sickness."
- 7) All policies, except single premium nonrenewal policies, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance, that the policyholder shall have the right to return the policy within 10 days after its delivery and to have the premium refunded if after examination of the policy the policyholder is not satisfied for any reason.
- 8) If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy as originally issued, that fact must be prominently set forth in the outline of coverage.
- 9) If a policy contains a conversion privilege, it shall comply, in substance, with the following: the caption of the provision shall be "Conversion Privilege", or words of similar import. The provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised. The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.
- 10) All specified disease policies shall contain a prominent statement on the first page of the policy in contrasting color and in bold face type at least equal to the size of type used for policy captions, a prominent statement as follows: "This is a limited policy. Read it carefully."

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

11) Notice Requirements:

- A) At the time of purchase of fixed indemnity contracts, ~~health applicants must attest to being enrolled in minimum essential coverage (MEC) within the meaning of 26 USC 5000A(f), or that they are treated as having minimum essential coverage due to their status as a bona fide resident of any possession of the United States pursuant to 26 USC 5000A(f)(4)(B).~~ The fixed indemnity insurer must provide notice within the application indicating that the fixed indemnity is not minimum essential coverage (MEC) within the meaning of 26 USC 5000A(f) and does not satisfy that satisfies the ACA individual mandate. That notice must contain the following verbiage displayed prominently in the plan materials in at least 14-point type that has the following language:

"THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES."

- B) The notice requirement of subsection (a)(11)(A) applies to all hospital or other fixed indemnity insurance policy years beginning on or after January 1, 2015, ~~and the attestation requirement of subsection (a)(11)(A) applies to hospital or other fixed indemnity insurance policies issued on or after January 1, 2015.~~
- C) These notice ~~and attestation~~ requirements do not apply to individual hospital indemnity or other fixed indemnity insurance policies issued before January 1, 2015 that do not require an application as a condition of renewal, are guaranteed renewable or non-cancelable, and only condition renewal on the timely payment of premiums with no renewal application form required.
- D) These notice ~~and~~ requirements apply only to hospital indemnity or other fixed indemnity insurance policies sold in the individual market. They do not apply to any other type or category of insurance that is listed separately as an excepted benefit in the federal Public Health Service Act (42 USC ch. 6A) (e.g., disability

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

income insurance, specified disease insurance, accident only insurance, etc.), regardless of whether the benefits under that coverage are paid as a fixed dollar amount per day or other period, or per service.

- E) These notice ~~and attestation~~ requirements do not apply to individual ~~hospital~~ indemnity or other fixed indemnity insurance policyholders who are age 65 or older and are enrolled in Medicare.
- b) Outline of Coverage Requirements for Individual Coverages
- 1) No individual accident and health insurance policy shall be delivered or issued for delivery in this State unless an appropriate Summary of Benefits, in accordance with 50 Ill. Adm. Code 2001.10, that includes an outline of coverage as prescribed in subsections (c) through (l) is completed as to the policy and is delivered in accordance with Section 355a(5)(a) of the Illinois Insurance Code [215 ILCS 5/355a(5)(a)].
 - 2) In the event that a policy is issued on a basis other than that applied for, an outline of coverage properly describing the policy must accompany the policy when it is delivered and, if an outline of coverage was delivered earlier, contain the following statement, in not less than 12 point type, immediately above the company name:

NOTICE

Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.

- 3) In those cases in which a policy designed to supplement existing coverage is approved, the outline of coverage shall prominently state that coverage is designed to supplement other health insurance policies owned by the insured.
- 4) The appropriate outline of coverage for policies providing hospital coverage that only meets the standards of Section 2007.70(b)(2) shall be that statement contained in subsection (c) of this Section. The appropriate

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

outline of coverage for policies providing coverage that meets the standards of both Section 2007.70(b)(2) and (3) shall be the statement contained in subsection (e) of this Section. The appropriate outline of coverage for policies providing coverage that meets the standards of Section 2007.70(b)(2) and (5), (b)(3) and (5), or (b)(2), (3) and (5) shall be the statement contained in subsection (g) of this Section.

- c) **Basic Hospital Expense Coverage (Outline of Coverage)**
An outline of coverage, in the form prescribed in this subsection (c), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
**BASIC HOSPITAL EXPENSE COVERAGE
OUTLINE OF COVERAGE**

- 1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) **Basic Hospital Expense Coverage** – Policies of this category are designed to provide to persons insured coverage for hospital expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, and hospital outpatient services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for physicians or surgeons fees or unlimited hospital expenses.
- 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy in the following order:
 - A) daily hospital room and board;
 - B) miscellaneous hospital services;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- C) hospital out-patient services; and
- D) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (c)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to charge premiums.)
- d) Basic Medical-Surgical Expense Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed [in this subsection \(d\) below](#), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(3). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
BASIC MEDICAL-SURGICAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control your policy. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) Basic Medical-Surgical Expense Coverage – Policies of this category are designed to provide to persons insured coverage for medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

requirements set forth in the policy. Coverage is not provided for hospital expenses or unlimited medical surgical expenses.

- 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:
 - A) surgical services;
 - B) anesthesia services;
 - C) in-hospital medical services; and
 - D) other benefits, if any.)

AGENCY NOTE: The ~~above~~ description of benefits in this subsection (d)(3) shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (d)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- e) **Basic Hospital and Medical Surgical Expense Coverage (Outline of Coverage)**
An outline of coverage, in the form prescribed in this subsection (e) below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2) and (3). The items included in the outline of coverage must appear in the sequence prescribed.

(COMPANY NAME)
BASIC HOSPITAL AND MEDIAL SURGICAL
EXPENSE COVERAGE OUTLINE OF COVERAGE

- 1) **Read Your Policy Carefully** – This outline of coverage provides a very

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

- 2) Basic Hospital and Medical Surgical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for hospital and medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, hospital out-patient services, surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for unlimited hospital or medical-surgical expenses.
- 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:
 - A) daily hospital room and board;
 - B) miscellaneous hospital services;
 - C) hospital out-patient services;
 - D) surgical services;
 - E) anesthesia services;
 - F) in-hospital medical services; and
 - G) other benefits, if any.)

AGENCY NOTE: The ~~above~~ description of benefits in this subsection (e)(3) shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (e)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- f) Hospital Confinement Indemnity Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(4). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

HOSPITAL CONFINEMENT INDEMNITY COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) Hospital Confinement Indemnity Coverage – Policies of this category are designed to provide to persons insured, coverage in the form of a fixed daily benefit during periods of hospitalization resulting from a covered accident or sickness, subject to any limitations set forth in the policy. These policies do not provide any benefits other than the fixed daily indemnity for hospital confinement and any additional benefit described in subsections (f)(3) through (f)(6).
- 3) (A brief specific description of the benefits contained in this policy, in the following order:
 - A) daily benefit payable during hospital confinement; and
 - B) duration of benefit described in (A).)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

AGENCY NOTE: The description of benefits in this subsection (f)(3) shall be stated clearly and concisely.

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (f)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
 - 6) (Any benefits provided in addition to the daily hospital benefit.)
- g) Major Medical Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed in this subsection (g), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(5). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
MAJOR MEDICAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) Major Medical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for major hospital, medical, and surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, surgical services, anesthesia services, in-hospital medical services, and out of hospital care, subject to any deductibles, co-payment provisions, or other limitations that may be set forth in the policy. Basic hospital or basic medical insurance coverage is not provided.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy, in the following order:
- A) daily hospital room and board;
 - B) miscellaneous hospital services;
 - C) surgical services;
 - D) anesthesia services;
 - E) in-hospital medical services;
 - F) out of hospital care;
 - G) maximum dollar amount for covered charges; and
 - H) other benefits, if any.)

AGENCY NOTE: The ~~above~~ description of benefits in this subsection (g)(3) shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

- 4) (A description of policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (g)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- h) Disability Income Protection Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed in this subsection (h)below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(6). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

DISABILITY INCOME PROTECTION COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) Disability Income Protection Coverage – Policies of this category are designed to provide, to persons insured, coverage for disabilities resulting from a covered accident or sickness, subject to any limitations set forth in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.
- 3) (A brief specific description of the benefits contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely.
- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (h)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

- i) Accident Only Coverage (Outline of Coverage)
An outline of coverage in the form prescribed in this subsection (i) shall be issued in connection with policies meeting the standards of Section 2007.70(b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY)
ACCIDENT ONLY COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

- 2) Accident Only Coverage – Policies of this category are designed to provide, to persons insured, coverage for certain losses resulting from a covered accident **ONLY**, subject to any limitations contained in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.

- 3) (A brief specific description of the benefits contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(e).

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (i)(3).)

- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

- j) Specified Disease or Specified Accident Coverage (Outline of Coverage)
An outline of coverage in the form prescribed in this subsection (j), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(8). The coverage shall be identified by the appropriate bracketed title. The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
(SPECIFIED DISEASE) (SPECIFIED ACCIDENT COVERAGE)
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

- 2) (Specified Disease) (Specified Accident) Coverage – Policies of this category are designed to provide, to persons insured, restricted coverage paying benefits **ONLY** when certain losses occur as a result of (specified diseases) or (specified accidents). Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.

- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(b)(1)(L).

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (j)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restriction or any reservation of right to change premiums.)

- k) Limited Benefit Health Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed [in this subsection \(k\) below](#), shall be issued in connection with policies that do not meet the minimum standards of Section 2007.70(b)(2) through (b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
LIMITED BENEFIT HEALTH COVERAGE
OUTLINE OF COVERAGE

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) Limited Benefit Health Coverage – Policies of this category are designed to provide, to persons insured, limited or supplemental coverage.
- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(b)(1)(L).

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (k)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- 1) Non-Conventional Coverage (Outline of Coverage)
The outline of coverage shall include the following information:
 - 1) The name and principal address of the insurer.
 - 2) An appropriate statement of identification of the type of coverage provided by the policy.
 - 3) A description of each of the principal benefits and coverages, including the benefit amounts, duration or limits, elimination periods, inner limits and any other items appropriate to the coverage provided.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 4) A description of the terms and conditions of renewability of the policy, including any limitations by age, time or event, rights to change premium, status requirements and any other matters appropriate to the terms and conditions of renewability (including any rights of cancellation reserved to the insurer).
- 5) A description of the principal exceptions, reductions and limitations contained in the policy, including the preexisting conditions, if any, and the circumstances under which any reduction provisions become operative.
- 6) A statement that the Outline of Coverage is only a brief summary of the policy and is not the contract of insurance. The policy itself sets forth the rights and obligations of the insured and insurer.

(Source: Amended at 43 Ill. Reg. 388, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Business Entities
- 2) Code Citation: 50 Ill. Adm. Code 3115
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
3115.10	Repealed
3115.30	Repealed
3115.40	Repealed
- 4) Statutory Authority: Implementing Sections 500-10, 500-30 and 500-70 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-10, 500-30, 500-70, and 401].
- 5) Effective Date of Repealer: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17489; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? There were none.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 3115 was identified for repeal as redundant and unnecessary during the Department of Insurance's extensive review of its regulations under Governor Rauner's "Cutting the Red Tape Initiative" to ensure that our

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

administrative rules are up to date and reflect current Department practices and functions; use plain language where appropriate; do not cause undue administrative delay or backlog; are not unduly burdensome to businesses; and are statutorily authorized. Part 3115 was determined to be duplicative of Part 3121, with the exception of several paragraphs which are now being incorporated into Part 3121. Therefore, Part 3115 is being repealed in its entirety.

- 16) Information and questions regarding this adopted repealer shall be directed to:

David Murphy, Assistant Deputy Director
Licensing/Education & Testing
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/782-5415

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Producer Licensing
- 2) Code Citation: 50 Ill. Adm. Code 3121
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
3121.10	Amendment
3121.40	Amendment
- 4) Statutory Authority: Implementing Sections 500-10 through 500-155 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-10 through 500-155 and 401].
- 5) Effective Date of Rules: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17493; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The changes require that a business entity must, at the time of application, appoint an individual to be responsible for that entity's compliance with the Illinois Insurance Code and the applicable rules in Title 50 of the Illinois Administrative Code. The changes also make the terms of Section 500-70 and

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Article XXXI of the Insurance Code applicable to the business entity or those acting in behalf of the business entity. The Sections added to Part 3121 are currently included in Part 3115, which is otherwise duplicative of Part 3121 and is being repealed in its entirety.

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

David Murphy, Assistant Deputy Director
Licensing/Education & Testing
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/782-5415

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES~~REGISTERED FIRMS~~

PART 3121
PRODUCER LICENSING

Section	
3121.10	Purpose
3121.20	Definitions
3121.30	Insurance Producer
3121.40	Business Entity Producer
3121.50	Severability

AUTHORITY: Implementing Sections 500-10 through 500-155 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Adopted at 39 Ill. Reg. 8288, effective May 26, 2015; amended at 43 Ill. Reg. 409, effective December 21, 2018.

Section 3121.10 Purpose

The purpose of this Part is to establish requirements for individual insurance producers and business entity producers that the Director deems necessary to carry out the provisions of Sections 500-10 through 500-155 of the Illinois Insurance Code. Failure to adhere to the standards set forth in this Part will subject the offender, in addition to any other penalties or remedies provided by law, to proceedings under Article XXXI of the Code. Specifically, this Part establishes the following:

- a) defines the term "resident";
- b) requires the Designated Responsible Licensed Producer (DRLP) of a business entity to be an owner, member, partner, officer or director of the business entity;
- c) sets the expiration date of a business entity license to be reciprocal with the NAIC resident business rules;

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- d) defines the expiration date of a first time individual insurance license as that person's birth month;
- e) allows the Department five business days to receive and distribute reported pre-licensing and continuing education before an applicant can apply or renew a license;
- f) requires individual and business entities to provide an email address on their Insurance Producer and Business Entity Producer applications; and
- g) requires that the individual or business entity notify the Director within 30 days after an email address change.

(Source: Amended at 43 Ill. Reg. 409, effective December 21, 2018)

Section 3121.40 Business Entity Producer

- a) A business entity producer license ~~will~~shall expire on May 31 biennially.
- b) Each business entity, at the time of application, shall designate at least one individual as the entity's DRLP. The ~~business entity's~~ DRLP must have an active resident or nonresident producer license in Illinois and must be an owner, member, partner, officer or director of the business entity who is responsible for the business entity's compliance with the insurance laws and rules of this State.
- c) If the business entity or its officers, directors, members or partners acting in behalf of the business entity commits an act or acts that could cause an insurance producer to be subject to the provisions of Section 500-70 of the Code, then any officer, director, member or partner engaged in those acts will be subject to the terms set forth in Section 500-70.

(Source: Amended at 43 Ill. Reg. 409, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Payment of Annual Compliance Fees for Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4415
- 3) Section Number: 4415.90 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112].
- 5) Effective Date of Rule: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17497; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: Several changes in citation format were made at JCAR's request. There were no substantive changes.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The penalty provisions in Sections 1A-113(a) and (b) of the Illinois Pension Code for late filing of an annual statement and an actuarial statement include a just cause provision. The penalty for late payment of a fee in Sec. 1A-113(c) does not include a just cause provision. The existing rule in Part 4415.90 states incorrectly that a fund "may" be subject to a late penalty when the statute clearly

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

states the fund "shall" be subject to a late penalty fee if payment is late. Without legislative changes to Section 1A-113(a) and (c) and associated rules, a good cause hearing would continue to be required for late filing penalties.

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

Kevin Fry, Deputy Director
Financial/Corporate Regulatory Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-1756

The full text of the Adopted Amendment begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONS

PART 4415

PAYMENT OF ANNUAL COMPLIANCE FEES FOR PENSION FUNDS

Section

4415.10	Purpose
4415.20	Applicability
4415.30	Definitions
4415.40	Annual Compliance Fee Amount
4415.50	Notification of Annual Compliance Fee Amount
4415.60	Annual Compliance Fee Payment Date
4415.70	Payment Method
4415.80	Hearing on Annual Compliance Fee Amount
4415.90	Penalties
4415.ILLUSTRATION A	Designation for Fund Transfer for State Pension Fund for Payment of Annual Compliance Fee
4415.ILLUSTRATION B	Designation for Automated Clearing House Payment of Annual Compliance Fees

AUTHORITY: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112].

SOURCE: Adopted at 22 Ill. Reg. 7987, effective April 27, 1998; amended at 26 Ill. Reg. 16529, effective October 28, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 30 Ill. Reg. 13176, effective July 24, 2006; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 41 Ill. Reg. 4978 ; amended at 43 Ill. Reg. 413, effective December 21, 2018.

Section 4415.90 Penalties

Every pension fund required to pay an annual compliance fee pursuant to Section 4415.20 will~~may~~ also be subject to a ~~late~~ penalty ~~fee as set forth in Section 1A-113(c) of the Illinois Pension Code [40 ILCS 5]~~ and may also be subject to a ~~civil noncompliance~~ penalty as set forth

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

in [Section 1A-113\(d\)\(5\) of the Code](#) and 50 Ill. Adm. Code ~~4435.60~~[4435](#) if the pension fund fails to comply by the payment due date, as set forth in Section 4415.60 ~~of this Part~~.

(Source: Amended at 43 Ill. Reg. 413, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Noncompliance Notification and Penalties
- 2) Code Citation: 50 Ill. Adm. Code 4435
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
4435.70	Amendment
4435.80	Amendment
- 4) Statutory Authority: Implementing Section 1A-113 and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103 and 1A-113].
- 5) Effective Date of Rule: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17501; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

In 4435.70(b), 3rd line, changed "1A-112" to "1A-110 or 1A-111".

In 4435.80(a), 3rd line, after "4435.70" added ", or if a pension fund subject to penalties under Section 4435.70 requests a hearing".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: Currently, Part 4435 requires the Director to hold a hearing before assessing a penalty against a fund who has failed to timely file its annual statement or pay its annual compliance fee. The hearing is unnecessary as there is not a factual dispute as to whether an event is late. Entities can still request a hearing but this amendment will remove the unnecessary requirement of holding a hearing before a penalty can be assessed.
- 16) Information and questions regarding these adopted rules shall be directed to:

Kevin Fry, Deputy Director
Financial/Corporate Regulatory Division
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-1756

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONSPART 4435
NONCOMPLIANCE NOTIFICATION AND PENALTIES

Section

4435.10	Purpose
4435.20	Applicability
4435.30	Definitions
4435.40	Notification of Noncompliance
4435.50	Reasonable Compliance Period for Notification
4435.60	Director's Determination of Noncompliance
4435.70	Director's Determination of Failure to Timely File
4435.80	Hearing to Show Good and Sufficient Cause

AUTHORITY: Implementing Section 1A-113 and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103 and 1A-113].

SOURCE: Adopted at 22 Ill. Reg. 10459, effective June 1, 1998; amended at 43 Ill. Reg. 417, effective December 21, 2018.

Section 4435.70 Director's Determination of Failure to Timely File

- a) If the Director determines, ~~after a hearing held pursuant to Section 4435.80 of this Part,~~ that any pension fund has failed, without good and sufficient cause, to file its annual statement within the time prescribed ~~by~~ under Section 1A-109 of the Code, the Director may order the pension fund to pay a penalty, *which shall not exceed \$100 for each day's delay* [40 ILCS 5/1A-113(a)] ~~(see P.A. 90-507, effective August 22, 1997).~~
- b) If the Director determines, ~~after a hearing held pursuant to Section 4435.80 of this Part,~~ that any pension fund has failed, without good and sufficient cause, to file its actuarial statement within the time prescribed ~~by~~ under Section ~~1A-110 or 1A-111~~ 1A-112 of the Code, the Director may order the pension fund to pay a penalty, *which shall not exceed \$100 for each day's delay* [40 ILCS 5/1A-113(b)] ~~(see P.A. 90-507, effective August 22, 1997).~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- c) If the Director determines, ~~after a hearing held pursuant to Section 4435.80 of this Part,~~ that any pension fund has failed, ~~without good and sufficient cause,~~ to pay afile its annual compliance fee within the time prescribed ~~by~~under Section 1A-112 of the Code, the Director may order the pension fund to pay a penalty of 5% of the amount of the annual compliance fee for each month, or part of a month, that the annual compliance fee is late. ~~The~~Such fee shall not exceed 25% of the total amount of the ~~annual compliance~~ fee due.

(Source: Amended at 43 Ill. Reg. 417, effective December 21, 2018)

Section 4435.80 Hearing to Show Good and Sufficient Cause

- a) If the Director determines that a hearing should be held to allow a demonstration of good and sufficient cause pursuant to either Section 4435.50 or Section 4435.70, or if a pension fund subject to penalties under Section 4435.70 requests a hearing of this Part, ~~the~~such hearing shall be conducted pursuant to the procedures set forth in 50 Ill. Adm. Code 2402, except that, if more specific procedures are set forth in this Part, then the more specific procedures apply.
- b) At ~~the~~such hearing, the burden of proof to show good and sufficient cause for failure to comply with the requirements of the Code and/or Department ~~regulations~~regulation(s) shall be on the pension fund, governmental unit, or elected or appointed officials of a governmental unit notified pursuant to Section 4435.40 ~~of this Part~~.
- c) In determining whether the pension fund, governmental unit, or elected or appointed official of a governmental unit has met the burden of proof as required by subsection (b) ~~of this Section~~, the Director may consider, but is not limited to, the following:
- 1) Evidence that, due to no fault of the pension fund, governmental unit, or elected or appointed official of a governmental unit, there was an unforeseeable or unexpected delay or occurrence;
 - 2) Evidence of an uncontrollable circumstance; and
 - 3) Evidence pertaining to Acts of God.
- d) The Director, in determining that the pension fund, governmental unit, or elected

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

or appointed official of a governmental unit has failed to meet the burden of proof ~~as~~ required by subsection (b) ~~of this Section~~, will consider, but is not limited to, the following:

- 1) Evidence or claims of ignorance of the requirements of the Code and/or Department regulations; and
- 2) Evidence of irresponsibility and/or mismanagement on the part of the pension fund, governmental unit, or elected or appointed official of a governmental unit notified.

(Source: Amended at 43 Ill. Reg. 417, effective December 21, 2018)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Navigator, In-Person Counselor and Certified Application Counselor Certification
- 2) Code Citation: 50 Ill. Adm. Code 4515
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
4515.10	Amendment
4515.20	Amendment
4515.50	Amendment
4515.60	Amendment
4515.90	Repealed
4515.100	Amendment
4515.110	Repealed
- 4) Statutory Authority: Implementing and authorized by the Navigator Certification Act [215 ILCS 121]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.
- 5) Effective Date of Rules: December 21, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 17506; October 5, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: In 4515.100(b)(1), 3rd line and (b)(2), 4th line, changed "an extension" to "a renewal".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In Section 4515.50, the amendments to paragraphs (f), (g), and (h) merely remove textual redundancy, as the requirements currently provided in Section 4515.50(f) and (g) are already wholly incorporated in Section 4515.50(h). Amendments throughout the rule remove provisions applicable to training providers and courses that are certified by the State of Illinois, as those provisions have become obsolete now that the State no longer offers that programming. The amendments also add requirements for federal training to comply with federal law. The amendments indicate that the Department will designate federal training courses provided online for Navigators, In-Person Counselors, and Certified Application Counselors to satisfy their initial training and continuing education requirements.
- 16) Information and questions regarding these adopted rules shall be directed to:

David Murphy, Assistant Deputy Director
Licensing/Education & Testing
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/782-5415

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ww: HEALTH CARE SERVICE PLANSPART 4515
NAVIGATOR, IN-PERSON COUNSELOR AND CERTIFIED
APPLICATION COUNSELOR CERTIFICATION

Section

4515.10	Purpose
4515.20	Definitions
4515.30	Certification Required
4515.40	Exemption from Certification
4515.50	Application for Certification
4515.60	Certification Renewal
4515.70	Navigator, In-Person Counselor and Certified Application Counselor Prohibited Conduct
4515.80	Reporting to the Director
4515.90	Training Provider Responsibilities (Repealed)
4515.100	Responsibilities of the Applicant for the Navigator, In-Person Counselor or Certified Application Counselor Certification
4515.110	Continuing Education Course Design (Repealed)
4515.120	Certification Denial, Nonrenewal or Revocation
4515.130	Regulatory Examinations
4515.140	Disqualifying Offense Review

AUTHORITY: Implementing and authorized by the Navigator Certification Act [215 ILCS 121]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Adopted at 38 Ill. Reg. 2226, effective January 3, 2014; recodified from 50 Ill. Adm. Code 3125 to 50 Ill. Adm. Code 4515 at 41 Ill. Reg. 4976; amended at 43 Ill. Reg. 422, effective December 21, 2018.

Section 4515.10 Purpose

The purpose of this Part is to establish certification criteria for Navigator, In-Person Counselor or Certified Application Counselor certification; establish pre-certification education requirements for applicants for Navigators, In-Person Counselors or Certified Application Counselors certification; [and](#) establish continuing education requirements for Navigators, In-Person

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Counselors or Certified Application Counselors; ~~and establish requirements for Training Providers and instructors of continuing education courses.~~ Additionally, this Part establishes disqualification and non-compliance penalty provisions and disqualifying offense review standards for ~~Training Providers~~, Navigators, In-Person Counselors or Certified Application Counselors regardless of residency.

(Source: Amended at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.20 Definitions

"Certification" means the issuance by the Director of a license or authorization pursuant to this Part.

"Certified Application Counselor" means any employee or volunteer of a Certified Application Counselor Organization that enters into an agreement with the Marketplace to have its employees or volunteers provide information to individuals and employees about insurance affordability programs and qualified health plan coverage options; assist individuals and employees to apply for coverage in a qualified health plan through the Marketplace and for insurance affordability programs; and help to facilitate enrollment of eligible individuals in qualified health plans and insurance affordability programs.

"Certified Application Counselor Organization" means any organization designated by the Marketplace to certify its staff members or volunteers to act as certified application counselors and includes those organizations described in 45 CFR 155.225.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Course" means any course of study certified to the Director that meets the requirements of this Part, including but not limited to seminar, classroom, and self-study formats.

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance or anyone to whom the Director's responsibilities and authority are lawfully delegated.

"In-Person Counselor" means any individual or entity who receives grant funds from the State of Illinois to perform the activities and duties identified in 45 CFR

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

155.205 or is described or designated by a Marketplace, the State, or the United States Department of Health and Human Services, or could reasonably be described or designated as "non-Navigator assistance personnel" as described in 45 CFR 155.215. An In-Person Counselor would engage in the activities and meet the standards described in 45 CFR 155.215, including, but not limited to:

conduct public education activities to raise awareness of the availability of qualified health plans;

distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits under 26 USC 36B and cost-sharing reductions under 42 USC 18071;

facilitate enrollment in qualified health plans;

provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Services Act (42 USC 300gg-93), or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding his or her health plan, coverage, or a determination under a plan or coverage; and

provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace.

~~"Interactive Online Course" means courses only presented on the Internet that do not require a proctored final exam.~~

"Marketplace" means any health benefit exchange authorized under the federal Patient Protection and Affordable Care Act and established or operating in this State, including any exchange established or operated by the United States Department of Health and Human Services.

"Navigator" means any individual or entity who is certified as a "Navigator" under the federal Patient Protection and Affordable Care Act, and means any individual or entity, other than an insurance producer licensed by the Department, who receives grant funds from the United States Department of Health and Human Services to perform any of the activities and duties identified in 42 USC

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

18031(i)(3) or is described or designated by a Marketplace, the State, or the United States Department of Health and Human Services, or could reasonably be described or designated, as Navigators, as described in 45 CFR 155.210. A Navigator would engage in the activities and meet the standards described in 45 CFR 155.210 and 45 CFR 155.215, including, but not limited to:

conduct public education activities to raise awareness of the availability of qualified health plans;

distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits under 26 USC 36B and cost-sharing reductions under 42 USC 18071;

facilitate enrollment in qualified health plans;

provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Services Act (42 USC 300gg-93), or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding his or her health plan, coverage, or a determination under a plan or coverage; and

provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Marketplace.

"Qualified health plan" has the meaning given that term in 42 USC 18021(a).

~~"Successful Completion" means passing an examination with a score of 80% or above in no more than three attempts in accordance with criteria established by the Training Provider.~~

~~"Supervised Examination" means a proctored, timed and closed book examination.~~

~~"Training Provider" means any organization duly authorized by the Department to offer courses to individuals seeking certification by the Director pursuant to this Part.~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.50 Application for Certification

- a) An individual applying for a Navigator, In-Person Counselor or Certified Application Counselor certification shall make application to the Department on a form developed or accepted by the Director and declare under penalty of refusal, suspension, or revocation of the certification that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Director shall find that the individual:
- 1) Is at least 18 years of age;
 - 2) Maintains his or her principal place of business in the State;
 - 3) Is not disqualified for having committed any act that would be a ground for denial, suspension, or revocation of a certification;
 - 4) Has not had an insurance producer license, Navigator certification, In-Person Counselor certification, or Certified Application Counselor certification, or equivalent license or certification denied, suspended, or revoked in any state, province, district, or territory or by the United States Department of Health and Human Services;
 - 5) Has successfully passed the applicable federal training program for Navigators, In-Person Counselors or Certified Application Counselors;
 - 6) Unless otherwise determined by the Director, other than an applicant for Certified Application Counselor certification, has submitted a full set of fingerprints to the Department and successfully completed a criminal background check in a manner prescribed by the Director. The Director may accept an equivalent criminal background check performed by the Navigator entity, In-Person Counselor entity or Certified Application Counselor Organization;
 - 7) When applicable, has the written consent of the Director pursuant to 18 USC 1033 or any successor statute regulating crimes by or affecting

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

persons engaged in the business of insurance whose activities affect interstate commerce;

- 8) Possesses the requisite character and integrity; and
 - 9) Has identified the entity with which the individual is affiliated and supervised, if any.
- b) An entity that acts as a Navigator, supervises or is responsible for the activities of individual Navigators, or receives funding to perform those activities shall obtain a Navigator entity certification. An entity applying for Navigator entity certification shall:
- 1) Make application on a form containing the information prescribed by the Director; and
 - 2) Designate an individual registered as a Navigator to be responsible for the entity's compliance with this Chapter.
- c) An entity that acts as an In-Person Counselor, supervises or is responsible for the activities of individual In-Person Counselors, or receives funding to perform these activities shall obtain an In-Person Counselor entity certification. An entity applying for In-Person Counselor entity certification shall:
- 1) Make application on a form containing the information prescribed by the Director; and
 - 2) Designate an individual registered as an In-Person Counselor to be responsible for the entity's compliance with this Chapter.
- d) An entity that acts as a Certified Application Counselor Organization, supervises or is responsible for the activities of individual Certified Application Counselors, or receives funding to perform those activities shall obtain a Certified Application Counselor certification. An entity applying for a Certified Application Counselor certification shall:
- 1) Make application on a form containing the information prescribed by the Director; and

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 2) Designate an individual registered as a Certified Application Counselor to be responsible for the entity's compliance with this Chapter.
- e) The Director may require any documents deemed necessary to verify the information contained in an application submitted.
- ~~f) Entities certified as Navigators shall, in a manner prescribed by the Director, provide the Director with a list of all individual Navigators that it employs, supervises, or is affiliated with on a quarterly basis.~~
- ~~g) Entities certified as In-Person Counselors shall, in a manner prescribed by the Director, provide the Director with a list of all individual In-Person Counselors that it employs, supervises, or is affiliated with on a quarterly basis.~~
- fh) Entities certified as Navigators, In-Person Counselors or Certified Application Counselor Organizations shall, in a manner prescribed by the Director, provide the Director with a list of all individual Navigators, In-Person Counselors or Certified Application Counselors that it employs, supervises, or is affiliated with on a quarterly basis.

(Source: Amended at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.60 Certification Renewal

- a) A Navigator, In-Person Counselor, Certified Application Counselor and Certified Application Counselor Organization certification shall be valid for one year. A Navigator, In-Person Counselor, Certified Application Counselor and Certified Application Counselor Organization certification shall expire 12 months after certification.
- b) Thirty days prior to the end of the 12 month period, a Navigator, In-Person Counselor, Certified Application Counselor or Certified Application Counselor Organization may file an application for renewal on the application prescribed by the Director.
- c) Prior to the filing date for application for renewal of a certification, an individual Navigator, ~~or In-Person Counselor~~ shall complete 12 hours, and an individual Certified Application Counselor shall complete the applicable federal training course curriculum for recertification as provided in Section 4515.100(b).4 hours,

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

~~of continuing education requirements approved by the Director.~~ The individual, at the time of application, shall file with the Director, by a method prescribed by the Director, proof of passing the applicable federal training course curriculum.~~satisfactory certification of completion of the continuing education requirements.~~ Any failure to fulfill the ongoing continuing education requirements shall result in the expiration of the certification. Individual Navigators, In-Person Counselors or Certified Application Counselors whose certification has expired for failing to complete the continuing education requirements may not apply for a certification until they have provided satisfactory proof to the Director that they have completed the required continuing education requirements and have filed an application for certification.

(Source: Amended at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.90 Training Provider Responsibilities (Repealed)

- a) ~~Training shall be provided in a manner duly authorized by the Director.~~
- b) ~~Each Training Provider shall submit to the Director or his or her designee for certification each course it intends to offer for continuing education credit. Certification is to be submitted to the Director or his or her designee at least 30 days prior to the first date the course will be offered. Certification must be signed and dated by the Training Provider and contain: the Training Provider's name; Federal Employer Identification Number (FEIN) and/or Social Security number of the individual Training Provider; contact person and that person's telephone number; published Training Provider telephone number; course title; first date course will be offered; whether the course is for public education; class of insurance to which the course is applicable; and type of course instruction. The certification format and content are available on the Department's website at: www.insurance.illinois.gov/Producer/producer_information.asp and will be made available by the Department upon request.~~
- e) ~~The Training Provider shall maintain a copy of all instructional materials for each course. If the Training Provider ceases to offer a course or makes a significant change in the course materials, the Training Provider shall maintain the original material for one year from the date the course was terminated or significantly changed.~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- d) ~~The Training Provider shall maintain the following records for 3 years at a central location:~~
- 1) ~~Classroom or online course—roster for each classroom course or online course identifying the instructors, the student, the course, the location, and the date and hours of attendance.~~
 - 2) ~~Records of any examinations given.~~
 - 3) ~~Original course content provided in initial training that is appropriately updated may be used in continuing education training.~~
- e) ~~The Training Provider shall submit to the Director a list of students who have successfully completed a continuing education course. The list shall contain course number; credit hours; course title; reporting week being submitted; Training Provider name; FEIN and/or Social Security number for the individual navigator or in-person counselor; and student data (including student name and Social Security number, date course completed and credit hours for continuing education). The information shall be submitted by an electronic method of transfer prescribed by the Director. Each list shall be received by the Director within 10 days following the end of the week in which the course was completed. The date of completion for a course with an examination shall be the date the examination is graded by the Training Provider. No additional fee shall be charged to the student for reporting the student's successful completion to the Department. If the initial report contains an error, no additional charge shall be given for re-reporting the credits to the Department.~~
- f) ~~Instructors shall have either a Bachelor's degree or 3 years experience in the course subject matter. Training Providers must maintain evidence of those qualifications while the instructor is actively engaged in instructing the course and for one year thereafter.~~
- g) ~~Training Providers shall, upon the request of the Director, provide a copy of all course material, Training Provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Code and Department regulations pertaining to the Code.~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- h) ~~The Director may make arrangements, including contracting with an outside service administrator, for the purpose of administrating and collecting the educational data from the Training Providers. Under such an arrangement, all or a portion of the reporting requirements of the Training Provider shall be made to the servicing administrator.~~
- i) ~~Training Providers may not advertise a training course or continuing education course unless it has been approved by the Department.~~

(Source: Repealed at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.100 Responsibilities of the Applicant for the Navigator, In-Person Counselor or Certified Application Counselor Certification

- a) Prior to receiving approval for a Navigator, In-Person Counselor or Certified Application Counselor certification, the applicant must complete approved ~~State and~~ federal training courses prescribed by the Director. Initial courses for Navigators, ~~and~~ In-Person Counselors ~~and will be at least 24 hours and may be provided in person or online. Initial courses for~~ Certified Application Counselors will be ~~at least 6 hours and may be provided in person or~~ online. An applicant for a Navigator, In-Person Counselor or Certified Application Counselor must complete the Director prescribed ~~State and~~ federal training courses within 12 months prior to certification.
- b) Certified Navigator, In-Person Counselor or Certified Application Counselor
- 1) Each Navigator or In-Person Counselor shall complete 2 approved federal training courses prescribed by the Director to satisfy~~12 hours of~~ continuing education requirements prior to requesting a renewal~~an extension~~ of a certification. The training courses will be provided online.~~Two of the 12 hours of continuing education must consist of ethics.~~
- 2) Each Certified Application Counselor shall complete the same approved federal training courses that are prescribed by the Director as initial courses to satisfy~~a minimum of 4 hours of~~ continuing education requirements prior to requesting a renewal~~an extension~~ of a certification. The training courses will be provided online.~~One of the 4 hours of continuing education must consist of ethics.~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- c) Each Navigator, In-Person Counselor or Certified Application Counselor shall maintain a record of each course completed for 3 years from the date of completion. The record shall include the name of the provider of the continuing education course~~Training Provider~~, the course title, and the date of completion. Courses initiated or completed prior to the original issue date of the certificate shall not be used to meet continuing education requirements.

(Source: Amended at 43 Ill. Reg. 422, effective December 21, 2018)

Section 4515.110 Continuing Education Course Design (Repealed)

- a) ~~The certification of a continuing education course must be received by the Director at least 30 days prior to any course being offered.~~
- b) ~~For purposes of this Section, "full credit" shall mean the reasonable amount of time, as certified by the Training Provider, that is necessary for a student to study for and pass an examination or, in the case of a course with no examination, the number of documented classroom attendance hours.~~
- e) ~~Courses shall be intended to increase the knowledge and understanding of private and public insurance principles, applicable laws and regulations, Medicaid and Marketplace policies and operations, and outreach and education skills. The following courses shall not be considered for continuing education:~~
- 1) ~~Courses used for pre-certification training or insurance qualifying examination preparation.~~
 - 2) ~~Courses with less than one hour of certified continuing education credit.~~
- d) ~~For purposes of this Section, the minimum number of hours may be made up of any combination of classroom, on-line course, or self-study hours.~~
- e) ~~One credit will be awarded for each 50 minutes of online instruction.~~
- f) ~~No credit shall be given for a self-study course if the student does not successfully complete the examination. If the student fails an examination and successive examinations are given, the successive examinations must be substantially different from each other. Self-study courses are subject to the following additional requirements:~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) ~~No students shall evaluate their own examination. The evaluation of the examination must be completed by the Training Provider;~~
 - 2) ~~No Training Provider shall furnish the answers to an examination prior to the student completing the examination;~~
 - 3) ~~Self study exams must contain at least 25 questions. The number of questions must increase proportionately as the amount of material increases;~~
 - 4) ~~No more than a third of the questions shall be true/false; and~~
 - 5) ~~Credit hours shall be determined by the time it may take a student to study the material using 10 8½" by 11" full pages per credit hour (10-12 point font text), single line spacing with 1" margins.~~
- g) ~~Interactive Online Courses~~
~~Interactive online is a type of self study course. Interactive online courses are, by definition, only presented on the Internet and do not require a proctored final exam. To be eligible for certification under Section 3125.90, an interactive online course must meet the following additional requirements:~~
- 1) ~~The course must provide an exam at the end of each course;~~
 - 2) ~~The course must provide clear instructions on how to navigate through the course;~~
 - 3) ~~The course must provide the ability to go back and review any unit at any time prior to the examination;~~
 - 4) ~~The course must provide online viewing access to the Department at all times;~~
 - 5) ~~The course must include a statement that the student information will not be sold or distributed to any third party without prior written consent of the student. Taking the course shall not constitute consent;~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 6) ~~The course must provide some type of encryption. All personal information, including credit card number and name and address of the student must be encrypted so that the information cannot be read as it passes across the Internet;~~
- 7) ~~Students must affirm that they, and only they, completed the course; and~~
- 8) ~~The course must include the ability to contact an instructor (i.e., automated e-mail).~~

(Source: Repealed at 43 Ill. Reg. 422, effective December 21, 2018)

OFFICE OF THE STATE TREASURER

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Rules for Charitable Trust Stabilization Committee
- 2) Code Citation: 74 Ill. Adm. Code 650
- 3) Section Number: 650.40 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Charitable Trust Stabilization Act, 30 ILCS 790.
- 5) Effective Date of Rule: December 21, 2018
- 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 amendment is on file in the State Treasurer's office at 219 State House, Springfield IL 62706 and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 16913; September 21, 2018.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference 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 issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking provides further guidance for applicants located in a depressed area as defined in Section 3 of the Illinois Enterprise Zone Act [20 ILCS 655].
- 16) Information and questions regarding this adopted rule shall be directed to:

OFFICE OF THE STATE TREASURER

NOTICE OF ADOPTED AMENDMENT

Jennifer Olaya
Assistant General Counsel
Illinois State Treasurer
1 W. Old State Capitol Plaza, Suite 400
Springfield IL 62704

217/557-9360
jolaya@illinoistreasurer.gov

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

OFFICE OF THE STATE TREASURER

NOTICE OF ADOPTED AMENDMENT

TITLE 74: PUBLIC FINANCE

CHAPTER V: TREASURER

PART 650

RULES FOR CHARITABLE TRUST STABILIZATION COMMITTEE

SUBPART A: GENERAL PROVISIONS

Section
650.10 Definitions

SUBPART B: PURPOSE AND ELIGIBILITY

Section
650.20 Purpose
650.30 Grant Eligibility Criteria
650.40 Special Attention to Certain Applicants

SUBPART C: APPLICATION PROCEDURES

Section
650.50 Grant Application Process
650.60 Initial Review Process
650.70 Committee Consideration and Recommendation of Applications
650.80 Grant Award by Treasurer

SUBPART D: CONDITIONS OF AWARDS AND AGREEMENTS

Section
650.90 General Terms and Conditions of Grant Awards
650.100 Grant Agreements
650.110 Post Award Obligations

SUBPART E: PUBLIC NOTICE OF GRANT INFORMATION

Section
650.120 Public Notice of Grant Information

OFFICE OF THE STATE TREASURER

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing and authorized by the Charitable Trust Stabilization Act [30 ILCS 790].

SOURCE: Adopted at 38 Ill. Reg. 23810, effective December 4, 2014; amended at 41 Ill. Reg. 13383, effective October 20, 2017; amended at 43 Ill. Reg. 437, effective December 21, 2018.

SUBPART B: PURPOSE AND ELIGIBILITY

Section 650.40 Special Attention to Certain Applicants

Special ~~When considering applicants for a grant award, the Committee shall give special attention shall be given to public and private entities applicants that have an annual with operating budgets budget of less than \$1,000,000 that \$1 million and are located in a depressed area, as defined in Section 3 of the Illinois Enterprise Zone Act, and preferences for recommending grants to the State Treasurer may be given to these entities by the Committee~~ [20 ILCS 655] (Section 5 of the Act). [30 ILCS 790/5(a)] ~~When recommending grant awards to the State Treasurer, the Committee may give preference to those applicants. For purposes of this Part, an applicant is located in a depressed area if the applicant meets one or more of the following conditions:~~

- a) The unemployment rate in the census tract where the applicant is located had an annual average unemployment rate of at least 120% of the State's annual average unemployment rate for the most recent calendar year or the most recent fiscal year, as reported by the Department of Employment Security;
- b) All or part of the census tract where the applicant is located has a poverty rate of at least 20%, according to the latest data from the U.S. Census Bureau;
- c) The percent of households in the census tract where the applicant is located who receive SNAP Benefits is 20% or higher, according to the latest data from the U.S. Census Bureau; or
- d) 50% or more of the children in the census tract where the applicant is located are eligible to participate in the federal free or reduced-price meals program, according to reported statistics from the State Board of Education.

(Source: Amended at 43 Ill. Reg. 437, effective December 21, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Emissions Reduction Market System
- 2) Code Citation: 35 Ill. Adm. Code 205
- 3) Section Number: 205.115 Adopted Action:
New Section
- 4) Statutory Authority: Implementing Section 9.8 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.8, 27, 28].
- 5) Effective Date of Rule: December 26, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted amendments are available on the Board's website (<https://pcb.illinois.gov>) and are also on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 6572; April 13, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
 - A) Statement of Objection: November 30, 2018; 42 Ill. Reg. 6572
 - B) Agency Response: January 4, 2019; 43 Ill. Reg. 816
 - C) Date Agency Response Submitted for Approval to JCAR: December 13, 2018
- 11) Differences between Proposal and Final Version: The Board made a limited number of non-substantive clarifying changes to the rule.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: The Emissions Reduction Market System (ERMS) is a cap-and-trade program in which sources must hold allowances for actual emissions of volatile organic material (VOM). ERMS was intended to help attain the 1979 ozone National Ambient Air Quality Standards by reducing VOM emissions in the Chicago non-attainment area. Since IEPA began implementing ERMS in 2000, emissions from ERMS sources have decreased. IEPA reports that ERMS no longer provides any emission reductions beyond those already provided by other federal and State requirements. The Board proposed a Section 205.115, establishing a "sunset" date of April 30, 2018 for Part 205.
- 16) Information and questions regarding this adopted rule shall be directed to:

Tim Fox
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6085
Tim.Fox@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R18-22 in your request. The Board order is also available at the Board's website (<https://pcb.illinois.gov>).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: ALTERNATIVE REDUCTION PROGRAMPART 205
EMISSIONS REDUCTION MARKET SYSTEM

SUBPART A: GENERAL PROVISIONS

Section	
205.100	Severability
205.110	Purpose
205.115	Sunset Provision
205.120	Abbreviations and Acronyms
205.130	Definitions
205.150	Emissions Management Periods

SUBPART B: APPLICABILITY

Section	
205.200	Participating Source
205.205	Exempt Source
205.210	New Participating Source
205.220	Insignificant Emission Units
205.225	Startup, Malfunction or Breakdown

SUBPART C: OPERATIONAL IMPLEMENTATION

Section	
205.300	Seasonal Emissions Component of the Annual Emissions Report
205.310	ERMS Applications
205.315	CAAPP Permits for ERMS Sources
205.316	Federally Enforceable State Operating Permits for ERMS Sources
205.318	Certification for Exempt CAAPP Sources
205.320	Baseline Emissions
205.330	Emissions Determination Methods
205.335	Sampling, Testing, Monitoring and Recordkeeping Practices
205.337	Changes in Emissions Determination Methods and Sampling, Testing, Monitoring and Recordkeeping Practices

SUBPART D: SEASONAL EMISSIONS MANAGEMENT

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section	
205.400	Seasonal Emissions Allotment
205.405	Exclusions from Further Reductions
205.410	Participating Source Shutdowns

SUBPART E: ALTERNATIVE ATU GENERATION

Section	
205.500	Emissions Reduction Generator
205.510	Inter-Sector Transaction

SUBPART F: MARKET TRANSACTIONS

Section	
205.600	ERMS Database
205.610	Application for Transaction Account
205.620	Account Officer
205.630	ATU Transaction Procedures

SUBPART G: PERFORMANCE ACCOUNTABILITY

Section	
205.700	Compliance Accounting
205.710	Alternative Compliance Market Account (ACMA)
205.720	Emissions Excursion Compensation
205.730	Excursion Reporting
205.740	Enforcement Authority
205.750	Emergency Conditions
205.760	Market System Review Procedures

AUTHORITY: Implementing Section 9.8 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.8, 27 and 28].

SOURCE: Adopted in R97-13 at 21 Ill. Reg. 15777, effective November 25, 1997; amended in R05-11 at 29 Ill. Reg. 8848, effective June 13, 2005; amended in R18-22 at 43 Ill. Reg. 441, effective December 26, 2018.

SUBPART A: GENERAL PROVISIONS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section 205.115 Sunset Provision

This Part does not apply after April 29, 2018. Subject sources must comply with this Part before April 30, 2018.

(Source: Added at 43 Ill. Reg. 441, effective December 26, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code Citation: 35 Ill. Adm. Code 720
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
720.104	New Section
720.105	New Section
720.109	Renumbered, Amendment
720.111	Amendment
720.130	Amendment
720.131	Amendment
720.142	Amendment
720.143	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27.
- 5) Effective Date of Rules: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, including all materials incorporated by reference, are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15551; August 17, 2018
- 10) Has JCAR issued a statement of objections to this rulemaking? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No

- 14) Are there any other rulemakings pending on this Part? No

- 15) Summary and Purpose of Rulemaking: The amendments to Part 720 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 721 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

The following briefly summarizes the federal actions in the update periods:

Hazardous Waste Manifest Revisions and e-Manifest System User Fees – January 3, 2018 (83 Fed. Reg. 420): USEPA revised hazardous waste manifest requirements and established a user fee system for the e-Manifest System in 40 C.F.R. 260 and 262 through 265. The Board incorporates most of these USEPA revisions into corresponding 35 Ill. Adm. Code 720 and 722 through 725. The Board does not incorporate segments of the USEPA revisions.

DSWR Revisions—May 30, 2018 (83 Fed. Reg. 24664): USEPA revised the Definition of Solid Waste Rule (DSWR) in response to the vacatur in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017), reh'g granted, 883 F.3d 918 (D.C. Cir. Mar. 6, 2018). Amendments to 40 C.F.R. 260 and 261 removed 2015 revisions to the DSWR, restoring segments of 2008 revisions. The Board makes corresponding changes in 35 Ill. Adm. Code 720 and 721.

Specifically, the amendments to Part 720 incorporate elements of the federal e-Manifest System user fees provisions, changes in the general hazardous waste manifest requirements, and the DSWR revisions. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620.
You may also obtain a copy of the Board's opinion and order from the Internet at
pcb.illinois.gov.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section	
720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender
<u>720.104</u>	<u>Manifest Copy Submission Requirements for Certain Interstate Waste Shipments</u>
<u>720.105</u>	<u>Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments</u>
720. 109 104	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section	
720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section	
720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste and Verified Facility <u>facility</u> Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
- 720.142 Notification Requirement for Hazardous Secondary Materials
- 720.143 Legitimate Recycling of Hazardous Secondary Materials
- 720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21215, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 446, effective December 6, 2018.

SUBPART A: GENERAL PROVISIONS

Section 720.104 Manifest Copy Submission Requirements for Certain Interstate Waste Shipments

Where the state in which waste is generated or the state in which waste will be transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste must, regardless of the state in which the designated facility is located must do all of the following:

- a) Complete the facility portion of the applicable manifest;
- b) Sign and date the facility certification;
- c) Submit to the e-Manifest System a final copy of the manifest for data processing purposes; and
- d) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of the applicable of 40 CFR 264 or 265, each incorporated by reference in Section 720.111.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Former Section 720.104 renumbered to Section 720.109; new Section 720.104 added at 43 Ill. Reg. 446, effective December 6, 2018)

Section 720.105 Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments

- a) For purposes of this Section, "state-only regulated waste" means one of the following:
- 1) A waste that is not hazardous waste but for which a state regulatory program requires use of a manifest (USEPA Form 8700-22); or
 - 2) A hazardous waste that is federally exempt from manifest requirements but not exempt from manifest requirements under state law.
- b) In any case in which a state requires a manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management must do both of the following:
- 1) Comply with 35 Ill. Adm. Code 724.171 (Use of Manifest System) and 724.172 (Manifest Discrepancies); and
 - 2) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264, incorporated by reference in Section 720.111.

(Source: Added at 43 Ill. Reg. 446, effective December 6, 2018)

Section 720.~~109~~~~104~~ Electronic Reporting

- a) Scope and Applicability.
- 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

- A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
- 2) Electronic document submission under this Section can occur only as follows:
- A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
 - B) For submissions of documents to the State, submissions may occur only under the following circumstances:
 - i) To the Board, into the Board's Clerk's Office On-Line (COOL) system at www.ipcb.state.il.us.
 - ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1):
- A) Any document submitted via [facsimile](#);

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B), the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 (2017).

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to USEPA. Except as provided in subsection (a)(3) ~~of this Section~~, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
 - 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A).

BOARD NOTE: Subsection (c) is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 (2017).

- d) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to the Board or the Agency-

- 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].
- 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B).

BOARD NOTE: Subsection (d) is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ([20182017](#)).

- e) Effects of Submission of an Electronic Document in Lieu of Paper Documents

- 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) is derived from 40 CFR 3.4 and 3.2000(c) ([20182017](#)).

- f) Public Document Subject to State Laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
 - 1) The Administrative Procedure Act;
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act;
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
 - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) is derived from 40 CFR 3.2(c) ([20182017](#)).

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h) ([20182017](#)).

(Source: Renumbered from Section 720.104 and amended at 43 Ill. Reg. 446, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

"Accreditation Council for Graduate Medical Education: Glossary of Terms", March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

ACI. Available from the American Concrete Institute, Box 19150, Redford Station, Detroit, MI 48219:

ACI 318-83: "Building Code Requirements for Reinforced Concrete", adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, NY 10018, 212-354-3300:

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, DC 20005, 202-682-8000:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems", API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

"Evaporative Loss from External Floating-Roof Tanks", API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 721.983 and 725.984.

"Guide for Inspection of Refinery Equipment", Chapter XIII, "Atmospheric and Low Pressure Storage Tanks", 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 721.291, 724.291, 724.293, 725.291, and 725.292.

"Installation of Underground Petroleum Storage Systems", API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, 212-705-7722:

"Chemical Plant and Petroleum Refinery Piping", ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols", ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, "Standard Specification for Ready-Mixed Concrete", approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, "Standard Test Method for Saybolt Viscosity", approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

726.200.

ASTM D 93-85, "Standard Test Methods for Flash Point by Pensky-Martens Closed Tester", approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials", approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis", approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes", approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings", approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography", approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity", March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal", approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography", approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)", approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope", approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 721.963, 724.963, and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis", approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis", approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography", approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi", referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria", referenced in 35 Ill. Adm. Code 724.414 and 725.414.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

ISO. Available from the International Organization for Standardization, BIBC II, Chemin de Blandonne 8, CP 401, 1214 Vernier, Geneva, Switzerland (phone: +41 22 749 01 11; www.iso.org/stare):

International Standard ISO 3166-1:2013, "Codes for the representation of names of countries and their subdivisions – Part 1: Country code", Third edition (2013), referenced in 35 Ill. Adm. Code 702.183 and Section 722.182.

BOARD NOTE: ISO maintains a web page with a free on-line list of country codes: <https://www.iso.org/obp/ui/#search>.

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, 713-492-0535:

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems", NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

"Flammable and Combustible Liquids Code", NFPA 30 (1977), referenced in 35 Ill. Adm. Code 722.116.

"Flammable and Combustible Liquids Code", NFPA 30 (1981), referenced in 35 Ill. Adm. Code 722.116.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Flammable and Combustible Liquids Code", NFPA 30 (1984), referenced in 35 Ill. Adm. Code 721.298, ~~722.116~~, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

"Flammable and Combustible Liquids Code", NFPA 30, ~~issued August 7, (1987)~~, referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

"Flammable and Combustible Liquids Code", NFPA 30, ~~issued July 18, (2003)~~, as supplemented by TIA 03-1, ~~issued July 15, (2004)~~, and corrected by Errata 30-03-01, ~~issued August 13, (2004)~~, referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, 726.211, and 727.290.

"Standard System for the Identification of the Hazards of Materials for Emergency Response", NFPA 704 (2012 or 2017), referenced in 35 Ill. Adm. Code 722.114 and 722.116.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: www.ntis.gov):

"APTI Course 415: Control of Gaseous Emissions", December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: "APTI" denotes USEPA's "Air Pollution Training Institute" (Internet address: www.epa.gov/air/oaqps/eog/).

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program", USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

"Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry", Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

"Methods for Chemical Analysis of Water and Wastes", Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

"North American Industry Classification System", July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of "NAICS Code") for the purposes of Section 720.142, and in 35 Ill. Adm. Code 721.104.

BOARD NOTE: Also available on the Internet from the Bureau of Census: www.census.gov/naics/2007/naicod07.htm.

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities", August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources", October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar[®] Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 721.934, 721.963, 724.934, 724.963, 725.934, and 725.963.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for 35 Ill. Adm. Code 720.110; Appendix I to 35 Ill. Adm. Code 721; and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations", 2009 (also called "Guidance Manual for the Control of Transboundary Movements of Recoverable Materials" in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

"Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure" (individually referred to as "Annex B to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

C(2001)107/FINAL, as amended as described above, together with the text of Annex IX ("List B") to the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" ("Basel Convention").

"Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure" (individually referred to as "Annex C to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II ("Categories of Wastes Requiring Special Consideration") and VIII ("List A") to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA's lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to "OECD C(2001)107/FINAL" in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, "Ready Biodegradability",

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 301B (July 17, 1992), "CO₂ Evolution (Modified Sturm Test)", referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.09), as in effect on February 29, 2008 and revised December 15, 2017, December 18, 2017, December 29, 2017, and January 24, 2018, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303.

"Requisition Tracking Form" (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

"The Signature and Tally Record" (DD Form 1907), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303.

"DOD Multimodal Dangerous Goods Declaration" (DD Form 2890), as in effect in September 2015, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09, DD Form 626, DD Form 1348, DD Form 1907, and DD Form 2890 are available on-line for download in pdf format from www.esd.whs.mil/DD/.

[USEPA, e-Manifest System. Available from United States Environmental Protection Agency, e-Manifest System \(https://www.epa.gov/e-manifest\):](https://www.epa.gov/e-manifest)

["Hazardous Waste Manifest Instructions". Instructions for revision 12-17 of USEPA Forms 8700-22 and 8700-22A, referenced in 35 Ill. Adm. Code 722.121.](#)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: Also available on-line from the USEPA website at the following Internet address: www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, DC 20460:

"Inventory of Injection Wells", USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells", USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised", October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address:
www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

"EPA RCRA Delisting Program – Guidance Manual for the Petitioner", March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from www.gsa.gov/forms/forms.htm.

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, 202-783-3238:

10 CFR 20.2006 (2018) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 (2018) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 (2018) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 (2018) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 (2018) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

15 CFR 30.4(b) (2018) (Electronic Export Information Filing, Procedures, Deadlines, and Certification Statements), referenced in 35 Ill. Adm. Code 721.139.

15 CFR 30.6 (2018) (Electronic Export Information Data Elements), referenced in 35 Ill. Adm. Code 721.139.

29 CFR 1910.1200 (2018) (Hazard Communication), referenced in 35 Ill. Adm. Code 722.115.

33 CFR 153.203 (~~2018~~2017) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

40 CFR 3.3 (~~20182017~~) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (~~20182017~~) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 (~~20182017~~) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2018) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2018) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models", Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 (2017) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2018) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2018) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 (2018) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 721.934, 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 721.933, 721.934, 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 721.934, 721.935, 721.963, 721.983, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 721.933, 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 721.934, 724.934, and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 721.983, 724.982, 725.983, and 725.984.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 721.986, 724.986, and 725.987.

40 CFR 61 (2018) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2018) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Subpart FF of 40 CFR 61 (2018) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2018) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 (2018) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984, 724.984, 724.985, 725.985, and 725.986.

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63 (2018) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2018) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Appendix C to 40 CFR 63 (2018) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2018) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2018), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2018) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (~~2018~~~~2017~~) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 (2017) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

[Subpart B of 40 CFR 257 \(2017\) \(Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator \(CESQG\) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units\) \(40 CFR 257.5 through 257.30\)](#), referenced in 35 Ill. Adm. Code 722.114.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

40 CFR 258 (2017) (Criteria for Municipal Solid Waste Landfills),
referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) (2018) (Alternative Equivalent Testing Methods),
referenced in Section 720.121.

40 CFR 261.151 (2018) (Wording of the Instruments), referenced in 35 Ill.
Adm. Code 721.251.

Appendix III to 40 CFR 261 (2018) (Chemical Analysis Test Methods),
referenced in 35 Ill. Adm. Code 704.150 and 704.187.

Appendix to 40 CFR 262 (2018) (Uniform Hazardous Waste Manifest and
Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)),
referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code
724.986 and 725.987.

40 CFR 264.151 (2018) (Wording of the Instruments), referenced in 35 Ill.
Adm. Code 724.251 and 727.240.

[40 CFR 264.1311 \(2018\) \(Manifest Transactions Subject to Fees\),
referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1312 \(2018\) \(User Fee Calculation Methodology\), referenced
in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1313 \(2018\) \(User Fee Revisions\), referenced in 35 Ill. Adm.
Code 724.171.](#)

[40 CFR 264.1314 \(2018\) \(How to Make User Fee Payments\), referenced
in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1315 \(2018\) \(Sanctions for Delinquent Payments\), referenced
in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1316 \(2018\) \(Informal Fee Dispute Resolution\), referenced in
35 Ill. Adm. Code 724.171.](#)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

[Subpart FF of 40 CFR 264 \(2018\) \(Fees for the Electronic Hazardous Waste Manifest Program\)](#), referenced in Sections 720.104 and 720.105.

Appendix I to 40 CFR 264 (2018) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2018) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2018) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 (2018) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

[40 CFR 265.1311 \(2018\) \(Manifest Transactions Subject to Fees\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 265.1312 \(2018\) \(User Fee Calculation Methodology\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 265.1313 \(2018\) \(User Fee Revisions\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 265.1314 \(2018\) \(How to Make User Fee Payments\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 265.1315 \(2018\) \(Sanctions for Delinquent Payments\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 265.1316 \(2018\) \(Informal Fee Dispute Resolution\)](#), referenced in 35 Ill. Adm. Code 724.171.

[Subpart FF of 40 CFR 265 \(2018\) \(Fees for the Electronic Hazardous Waste Manifest Program\)](#), referenced in Sections 720.104 and 720.105.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Appendix I to 40 CFR 265 (2018) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2018) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2018) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2018) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 (2017) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces", December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151 (2017) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 (2017) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

40 CFR 302 (2018) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 711.15(a)(4)(i)(C) (2018) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 (2018) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 (2018) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 (2018) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2018) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2018) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 (2017) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 (2017) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 (2017) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2017) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2017) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

49 CFR 171.16 (2017) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2017) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

Table to 49 CFR 172.101 (2017) (Hazardous Materials Table), referenced in 35 Ill. Adm. Code 722.183, 722.184, 724.112, and 725.112.

49 CFR 172.304 (2017) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart C of 49 CFR 172 (2017) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

Subpart E of 49 CFR 172 (2017) (Labeling), referenced in 35 Ill. Adm. Code 722.114 and 722.115.

Subpart F of 49 CFR 172 (2017) (Placarding), referenced in 35 Ill. Adm. Code 722.114, 722.115, and 722.133.

49 CFR 173 (2017) (Shippers – General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (2017) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (2017) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 (2017) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

49 CFR 173.50 (2017) (Class 1 – Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (2017) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (2017) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2017) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 (2017) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 (2017) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 (2017) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 (2017) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 (2017) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 (2017) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 (2017) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 (2017) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

49 CFR 190 (2017) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2017) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 (2017) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2017) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (2017) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2017) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 196 (2017) (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2017) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2017) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014 (2016)), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 301, 304, 307, and 402 of the Clean Water Act (33 USC 1311, 1314, 1337, and 1342 (2016)), referenced in 35 Ill. Adm. Code 721.293.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j) (2016)), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1004 of the Resource Conservation and Recovery Act (42 USC 6903 (~~2016~~2013)), referenced in 35 Ill. Adm. Code 721.931, 721.951, 721.981, 724.931, 724.981, 725.931, 725.951, and 725.981.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140 (2016)), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1) (2015)), referenced in 35 Ill. Adm. Code 726.301.

- d) This Section incorporates no later editions or amendments.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.130 Procedures for Solid Waste Determinations and Non-Waste Determinations

In accordance with the standards and criteria in Sections 720.131 and 720.134 and the procedures in Section 720.133, the Board will determine on a case-by-case basis that the following recycled materials are not solid wastes:

- a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in 35 Ill. Adm. Code~~Section~~ 721.101(c)(8));
- b) Materials that are reclaimed and then reused within the original production process in which they were generated;
- c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;
- d) Hazardous secondary materials that are reclaimed in a continuous industrial process; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.
- f) ~~Hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and are managed at a verified reclamation facility or verified intermediate facility where the management of the hazardous secondary materials is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727.~~

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

Section 720.131 Solid Waste and Verified Facility Determinations

- a) The Board will determine that those materials that are accumulated speculatively without sufficient amounts being recycled are not solid wastes if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. Such a determination is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. This determination will be based on the following criteria:
 - 1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material or contractual arrangements for recycling);
 - 2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
 - 3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
 - 4) The extent to which the material is handled to minimize loss; and
 - 5) Other relevant factors.
- b) The Board will determine that those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated are not solid wastes if the reclamation operation is an essential part of the production process. This determination will be based on the following

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

criteria:

- 1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
 - 2) The extent to which the material is handled before reclamation to minimize loss;
 - 3) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
 - 4) The location of the reclamation operation in relation to the production process;
 - 5) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
 - 6) Whether the person that generates the material also reclaims it; and
 - 7) Other relevant factors.
- c) The Board will determine, as provided in Section 720.133, that those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed are not solid wastes if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the determination is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled, as specified in Section 720.143, and on whether all of the following decision criteria are satisfied:
- 1) Whether the degree of partial reclamation the material has undergone is substantial, as demonstrated by using a partial reclamation process other than the process that generated the hazardous secondary material;
 - 2) Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;
 - 4) Whether there is a market for the partially-reclaimed material, as demonstrated by known customers who are further reclaiming the material (e.g., records of sales or contracts and evidence of subsequent use, such as bills of lading); and
 - 5) Whether the partially-reclaimed material is handled to minimize loss.
- d) ~~Where the management of a hazardous secondary material is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, the Board will grant a verified facility determination, as provided in Section 720.133, from classifying as a solid waste those hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and which are managed at a verified reclamation facility or verified intermediate facility. The Board's determination will be based on the following criteria:~~
- 1) ~~The reclamation facility or intermediate facility has demonstrated that the reclamation process for the hazardous secondary materials is legitimate pursuant to Section 720.143;~~
 - 2) ~~The reclamation facility or intermediate facility satisfies the financial assurance condition in 35 Ill. Adm. Code 721.104(a)(24)(F)(vi);~~
 - 3) ~~The reclamation facility or intermediate facility has not been subject to a formal enforcement action in the previous three years and must not be classified as a significant non-complier under RCRA Subtitle C, or the facility has provided credible evidence that the facility will manage the hazardous secondary materials properly. Credible evidence may include a demonstration that the facility has taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials;~~
 - 4) ~~The intermediate or reclamation facility has the equipment and trained personnel needed to safely manage the hazardous secondary material, and the facility meets emergency preparedness and response requirements under Subpart M of 35 Ill. Adm. Code 721;~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 5) ~~If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals, the facility has a contract with an appropriately permitted facility to dispose of the residuals, or the facility has presented credible evidence that the residuals will be managed in a manner that is protective of human health and the environment; and~~
- 6) ~~The intermediate or reclamation facility has adequately addressed the potential for risk to proximate populations from unpermitted releases of the hazardous secondary material to the environment (i.e., releases that are not covered by a permit, such as a permit to discharge to water or air), which may include, but are not limited to, potential releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures); and the facility has included consideration of potential cumulative risks from other nearby potential stressors.~~

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

Section 720.142 Notification Requirement for Hazardous Secondary Materials

- a) A facility that manages hazardous secondary materials which are excluded from regulation under 35 Ill. Adm. Code 721.104(a)(23), (a)(24), or (a)(27) must send a notification to USEPA Region 5. The notification must occur prior to operating under the regulatory provision and before March 1 of every even-numbered calendar year thereafter using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). The notification must include the following information:
- 1) The name, address, and USEPA identification number (if applicable) of the facility;
 - 2) The name and telephone number of a contact person for the facility;
 - 3) The NAICS code of the facility;

BOARD NOTE: Determined using the "North American Industry Classification System", incorporated by reference in Section 720.111.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) The regulation under which the facility will manage the hazardous secondary materials;
 - 5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with 35 Ill. Adm. Code 721.104(a)(24) or (a)(25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);
 - ~~65~~) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
 - ~~76~~) A list of hazardous secondary materials that the facility will manage according to the regulation (reported as the USEPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
 - ~~87~~) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
 - ~~98~~) The quantity of each hazardous secondary material to be managed annually; and
 - ~~109~~) The certification (included in USEPA Form 8700-12) signed and dated by an authorized representative of the facility.
- b) If a facility that manages hazardous secondary material has submitted a notification, but then subsequently ceases managing hazardous secondary materials in accordance with a regulation listed in subsection (a), the facility owner or operator must notify the Agency within 30 days after the cessation using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under the regulation listed in subsection (a), and the facility owner or operator does not expect to manage any amount of hazardous secondary materials for at least one year.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification of regulated waste activity.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

Section 720.143 Legitimate Recycling of Hazardous Secondary Materials

- a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not the subject of legitimate recycling is discarded material and is a solid waste. A determination that an activity is legitimate recycling must address all the requirements of this subsection (a) and must consider the requirements of subsection (b).
 - 1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it fulfills one of the following criteria:
 - A) The material contributes valuable ingredients to a product or intermediate;
 - B) The material replaces a catalyst or carrier in the recycling process;
 - C) The material is the source of a valuable constituent recovered in the recycling process;
 - D) The material is recovered or regenerated by the recycling process;
or
 - E) The material is used as an effective substitute for a commercial product.
 - 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if either of the following is true:
 - A) The product or intermediate is sold to a third party; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) The product or intermediate is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
- 3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and which are not recovered immediately are discarded material.
- 4) ~~The product of the recycling process must be comparable to a legitimate product or intermediate as follows:~~
- A) ~~Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if both of the following conditions are true:~~
- i) ~~The product of the recycling process does not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit; and~~
- ii) ~~The concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely recognized commodity standards and specifications, where the commodity standards and specifications include levels that specifically address those hazardous constituents.~~
- B) ~~Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if either of the following conditions is true:~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) ~~The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals); or~~
 - ii) ~~The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).~~
- ⊖) ~~If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as provided in subsection (a)(4)(A) or (a)(4)(B), the recycling still may be shown to be legitimate if the person performing the recycling fulfills the following requirements:~~
- i) ~~The person performing the recycling must conduct the necessary assessment and prepare documentation which demonstrates that the recycling is, in fact, still legitimate;~~
 - ii) ~~The assessment and documentation demonstrate that the recycling is legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk;~~
 - iii) ~~The documentation must include a certification statement that the recycling is legitimate, and the assessment and documentation must be maintained on-site for three years after the recycling operation has ceased; and~~
 - iv) ~~The person performing the recycling must notify USEPA and the Agency of the recycling activity using USEPA Form 8700-12.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity. This subsection (b) corresponds with 40 CFR 260.43(b), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.
- 1) The product of the recycling process fulfills all of the following criteria:
- A) The product must not contain significant concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are not found in analogous products;
- B) The product must not contain concentrations of hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 at levels that are significantly elevated from those found in analogous products; and
- C) The product must not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit.
- 2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this subsection (b) is not met, then this fact may indicate that the material is not legitimately recycled. However, the factor in this subsection (b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.
- e) This subsection (e) corresponds with 40 CFR 260.43(e), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 721
- 3) Section Number: 721.104 Adopted Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rule: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15602; August 17, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 721 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of November 1, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

Specifically, the amendment to Part 721 incorporate the DSWR revisions. The Board makes several needed corrections in the text of the rules.

Specifically, the amendments to Part 722 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding this adopted rule shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators (Repealed)
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA
721.109	Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE
CHARACTERISTICS OF HAZARDOUS WASTE
AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART D: LISTS OF HAZARDOUS WASTE

Section	
721.130	General
721.131	Hazardous Wastes from Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
721.135	Wood Preserving Wastes

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section	
721.138	Exclusion of Comparable Fuel and Syngas Fuel (Repealed)
721.139	Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling
721.140	Conditional Exclusion for Used, Intact CRTs Exported for Recycling
721.141	Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

SUBPART H: FINANCIAL REQUIREMENTS FOR MANAGEMENT
OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section	
721.240	Applicability
721.241	Definitions of Terms as Used in This Subpart
721.242	Cost Estimate
721.243	Financial Assurance Condition
721.247	Liability Requirements
721.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
721.249	Use of State-Required Mechanisms
721.250	State Assumption of Responsibility
721.251	Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
721.270	Applicability
721.271	Condition of Containers
721.272	Compatibility of Hazardous Secondary Materials with Containers

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

721.273	Management of Containers
721.275	Secondary Containment
721.276	Special Requirements for Ignitable or Reactive Hazardous Secondary Material
721.277	Special Requirements for Incompatible Materials
721.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
721.290	Applicability
721.291	Assessment of Existing Tank System's Integrity
721.293	Containment and Detection of Releases
721.294	General Operating Requirements
721.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
721.297	Termination of Remanufacturing Exclusion
721.298	Special Requirements for Ignitable or Reactive Materials
721.299	Special Requirements for Incompatible Materials
721.300	Air Emission Standards

SUBPART M: EMERGENCY PREPAREDNESS AND RESPONSE FOR MANAGEMENT OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section	
721.500	Applicability
721.510	Preparedness and Prevention
721.511	Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or Less of Hazardous Secondary Material
721.520	Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
721.930	Applicability
721.931	Definitions
721.932	Standards: Process Vents
721.933	Standards: Closed-Vent Systems and Control Devices
721.934	Test Methods and Procedures
721.935	Recordkeeping Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
721.950	Applicability
721.951	Definitions
721.952	Standards: Pumps in Light Liquid Service
721.953	Standards: Compressors
721.954	Standards: Pressure Relief Devices in Gas/Vapor Service
721.955	Standards: Sampling Connection Systems
721.956	Standards: Open-Ended Valves or Lines
721.957	Standards: Valves in gas/Vapor Service or in Light Liquid Service
721.958	Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors
721.959	Standards: Delay of Repair
721.960	Standards: Closed-Vent Systems and Control Devices
721.961	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak
721.962	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair
721.963	Test Methods and Procedures
721.964	Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

Section	
721.980	Applicability
721.981	Definitions
721.982	Standards: General
721.983	Material Determination Procedures
721.984	Standards: Tanks
721.986	Standards: Containers
721.987	Standards: Closed-Vent Systems and Control Devices
721.988	Inspection and Monitoring Requirements
721.989	Recordkeeping Requirements
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G	Basis for Listing Hazardous Wastes
721.APPENDIX H	Hazardous Constituents
721.APPENDIX I	Wastes Excluded by Administrative Action
721.TABLE A	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Non-Specific Sources
721.TABLE B	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources
721.TABLE C	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y	Table to Section 721.138: Maximum Contaminant Concentration and Minimum Detection Limit Values for Comparable Fuel Specification (Repealed)
721.APPENDIX Z	Table to Section 721.102: Recycled Materials that Are Solid Waste

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R17-14/R17-15/R18-31 at 42 Ill. Reg. 21673, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 496, effective December 6, 2018.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

- a) **Materials That Are Not Solid Wastes.** The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
- 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act ~~[415 ILCS 5/12(f)]~~ and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.
- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
- B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

- v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act.
- 10) USEPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

prior to when it is mixed with coal.

- 11) Nonwastewater splash condenser dross residue from the treatment of USEPA hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.
 - B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A). Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.

- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;
 - C) Except as provided in subsection (a)(17)(D), the spent material is

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.

- D) The Agency must allow by permit in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

pathway.

- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - F) For purposes of subsection (b)(7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

process streams, provided that both of the following conditions are true of the oil:

- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste number D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F).
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii).
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i), and that

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
- i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through (a)(20)(ii)(D)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(G) to comport with Illinois Administrative Code codification requirements.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20), provided that the following conditions are fulfilled:

A) The fertilizers meet the following contaminant limits:

i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B). Such records must at a minimum include the following:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- 22) Used CRTs.
- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 23) Hazardous Secondary Materials Reclaimed under the Control of the Generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with subsections (a)(23)(A) and (a)(23)(B):
- A) Excluded Hazardous Secondary Materials
- i) The hazardous secondary material is generated and reclaimed at the generating facility. (For purposes of this subsection (a)(23)(A)(i), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);
- ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:
- "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."
- or
- "On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

safe management of the hazardous secondary material."

For purposes of this subsection (a)(23)(A)(ii), "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

- iii) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies as follows:

"On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

secondary materials that occur during the manufacturing process."

The tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For purposes of this subsection (a)(23)(A)(ii), "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

B) Management of Hazardous Secondary Materials

- i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;
- ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;
 - iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);
 - v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and
 - vi) The emergency preparedness and response requirements found in Subpart M are met.
- 24) Hazardous Secondary Materials Transferred for Off-Site Reclamation. Hazardous secondary material that is generated and then transferred to [another person](#) ~~a verified reclamation facility~~ for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G):
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).
- D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
- E) The hazardous secondary material generator must satisfy each of the following conditions:
- i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit that leaks or which otherwise continuously releases hazardous secondary material is discarded material and a solid waste.
 - ii) Prior to arranging for transport of hazardous secondary materials to a verified-reclamation facility in the United States. A "verified-reclamation facility" is a facility that has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d), or a reclamation facility where the management of the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727. If the hazardous secondary material will pass through an intermediate facility where, the facility must be a "verified intermediate facility" that

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

~~has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d) or management of the hazardous secondary materials is managed at that facility in a unit that is not subject to a RCRA permit or interim status standards must be regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, and the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer all of the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility.~~

BOARD NOTE: The Board moved the required generator inquiries of 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to subsection (a)(24)(H) to comply with codification requirements.

- iii) The hazardous secondary material generator must maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the facility manages the hazardous secondary materials in a unit that is not subject to a RCRA permit or interim status standards prior to transferring hazardous

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

secondary material. Documentation and certification must be made available upon request by USEPA or the Agency within 72 hours, or within a longer period of time as specified by USEPA or the Agency. The certification statement must include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed. The certification statement must also incorporate the following language:

"I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to (insert name(s) of reclamation facility and any intermediate facility), reasonable efforts were made in accordance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

BOARD NOTE: The Board combined the documentation, certification, and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into subsection (a)(24)(E)(iii) to comply with codification requirements.

- iviii) The hazardous secondary material generator must maintain certain records at the generating facility for a minimum of three years that document every off-site shipment of hazardous secondary materials. The documentation for each shipment must, at a minimum, include the following information about the shipment: the name of the transporter and date of the shipment; the name and address of each reclaimer and intermediate facility to which the hazardous secondary material was sent; and the type and quantity of hazardous secondary material in the shipment.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C) and (a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) to this single subsection (a)(24)(E)(~~iv~~~~iii~~). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

~~vi~~) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The generator may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).

~~vi~~) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M.

BOARD NOTE: The Board intends that "RCRA permit" in subsections (a)(24)(E)(ii) and (a)(24)(E)(iii) include a permit issued by USEPA or a sister state pursuant to section 3005 of RCRA (42 USC 6925).

- F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material which is excluded from regulation pursuant to this subsection (a)(24) must satisfy all of the following conditions:
- i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

years records of every shipment of hazardous secondary material that the facility received and, if applicable, for every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.

BOARD NOTE: The Board combined the provisions from 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through (a)(24)(vi)(A)(3) that enumerate the required information into this single subsection (a)(24)(F)(i). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).

- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
 - v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C, or if the residuals themselves are specifically listed as hazardous waste in Subpart D, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.
 - vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H.
 - vii) ~~The reclaimer and intermediate facility must have been granted a solid waste determination pursuant to 35 Ill. Adm. Code 720.131(d), or have a RCRA Part B permit or be subject to interim status standards that address the management of the hazardous secondary materials; and~~
- G) ~~In addition, any~~ Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

must provide notification as required by 35 Ill. Adm. Code 720.142.

- H) For the purposes of the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:
- i) Does the available information indicate that the reclamation process is legitimate pursuant to 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.
- ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or the Agency whether the reclaimer or intermediate facility has financial assurance.
- iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information from USEPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has been classified as a significant non-complier with RCRA Subtitle C, does the hazardous secondary material generator have credible evidence that the facility will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from USEPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

- iv) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from USEPA or the state, or information provided by the facility itself.

BOARD NOTE: The Board moved the required generator inquiries into a reclamation or intermediate facility of 40 CFR 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to this subsection (a)(24)(H) to comply with codification requirements.

- 25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) and (a)(24)(H) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements: This subsection (a)(25) corresponds with 40 CFR 261.4(a)(25), which USEPA removed and marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.

A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:

- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
- ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;

- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.), etc.);
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
- viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
- ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this Section, the terms "USEPA Acknowledgement of Consent", "country of import", and "country of transit" are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section refer to hazardous secondary materials, rather than hazardous waste).

- B) The generator must submit notifications electronically using USEPA's Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number required in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv), when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit pursuant to subsection (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA a USEPA Acknowledgment of Consent reflecting the country of import's consent to the changes.
- D) Upon request by USEPA, the hazardous secondary material generator shall furnish to USEPA any additional information that a country of import requests in order to respond to a notification.
- E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(25)(A). When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in accordance with 35 Ill. Adm. Code 720.102.
- F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, USEPA will

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

send an USEPA Acknowledgment of Consent to the hazardous secondary material generator. When the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.

- G) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.
- H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.
- I) If the shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another USEPA Acknowledgment of Consent.
- J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may satisfy this

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if it can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.

- K) Hazardous secondary material generators must file with USEPA, no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:
- i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (if applicable) for each transporter used, the total amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- v) A certification signed by the hazardous secondary material generator that states as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
 - F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.
- 27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that the following conditions are fulfilled:

BOARD NOTE: The North American Industrial Classification System (NAICS) codes used in this subsection (a)(27) are defined in the NAICS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Manual, available from the Office of Management and Budget and incorporated by reference in 35 Ill. Adm. Code 720.111.

- A) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol.
- B) The hazardous secondary material originated from using one or more of the solvents listed in subsection (a)(27)(A) in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- C) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in subsection (a)(27)(A) to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- D) After remanufacturing one or more of the solvents listed in subsection (a)(27)(A), the use of the remanufactured solvent must be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C) (Reporting Information to EPA), incorporated by reference in 35 Ill. Adm. Code 720.111, including Industrial Function Category

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents that become part of the mixture).

BOARD NOTE: The Board observes that the citation to Toxic Substances Control Act function categories and use of the word "including" to preface specific example Industrial Function Category Codes does not expand the range of permissible uses beyond the express limitations recited in the first segment of this subsection (a)(27)(D) and subsection (a)(27)(E).

- E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.
- F) Both the hazardous secondary material generator and the remanufacturer must fulfill the following requirements:
- i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;
 - ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.

- iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
 - v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage); and
 - vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).
- G) The following information items are required elements for a remanufacturing plan.
- i) The name, address and USEPA ID number of the generators and the remanufacturers;
 - ii) The types and estimated annual volumes of spent solvents to be remanufactured;
 - iii) The processes and industry sectors that generate the spent solvents;
 - iv) The specific uses and industry sectors for the remanufactured solvents; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- v) A certification from the remanufacturer stating as follows: "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR 60, 61 or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage)."

BOARD NOTE: Subsections (a)(27)(G)(i) through (a)(27)(G)(v) correspond with 40 CFR 261.4(a)(27)(vi)(B)(I) through (a)(27)(vi)(B)(I), moved to this subsection (a)(27)(G) to comport with codification requirements.

- b) Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:

- A) The facility receives and burns only the following waste:
 - i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
 - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

BOARD NOTE: The U.S. Supreme Court determined, in *City of Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash from facilities covered by this subsection (b)(1) from regulation as a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA granted facilities managing ash from such facilities that is determined a hazardous waste under Subpart C until December 7, 1994 to file a Part A permit application pursuant to 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995), USEPA stated that it interpreted that the point at which ash becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops; or
 - B) The raising of animals, including animal manures.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 3) Mining overburden returned to the mine site.
- 4) Coal and Fossil Fuel Combustion Waste
 - A) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
 - B) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:
 - i) Coal Pile Run-Off. For purposes of this subsection (b)(4), coal pile run-off means any precipitation that drains off coal piles.
 - ii) Boiler Cleaning Solutions. For purposes of this subsection (b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.
 - iii) Boiler Blowdown. For purposes of this subsection (b)(4), boiler blowdown means water purged from boilers used to generate steam.
 - iv) Process Water Treatment and Demineralizer Regeneration Wastes. For purposes of this subsection (b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
 - v) Cooling Tower Blowdown. For purposes of this subsection (b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

systems include cooling towers, cooling ponds, or spray canals.

- vi) Air Heater and Precipitator Washes. For purposes of this subsection (b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.
 - vii) Effluents from Floor and Yard Drains and Sumps. For purposes of this subsection (b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.
 - viii) Wastewater Treatment Sludges. For purposes of this subsection (b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium Wastes
- A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B) because chromium is present or which are listed in Subpart D due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

- iii) The waste is typically and frequently managed in non-oxidizing environments.

- B) The following are specific wastes that meet the standard in subsection (b)(6)(A) (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):

- i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
- iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

through-the-blue, and shearling;

- vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.
 - B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
 - i) Slag from primary copper processing;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- ii) Slag from primary lead processing;
- iii) Red and brown muds from bauxite refining;
- iv) Phosphogypsum from phosphoric acid production;
- v) Slag from elemental phosphorus production;
- vi) Gasifier ash from coal gasification;
- vii) Process wastewater from coal gasification;
- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ix) Slag tailings from primary copper processing;
- x) Fluorogypsum from hydrofluoric acid production;
- xi) Process wastewater from hydrofluoric acid production;
- xii) Air pollution control dust or sludge from iron blast furnaces;
- xiii) Iron blast furnace slag;
- xiv) Treated residue from roasting and leaching of chrome ore;
- xv) Process wastewater from primary magnesium processing by the anhydrous process;
- xvi) Process wastewater from phosphoric acid production;
- xvii) Basic oxygen furnace and open-hearth furnace air pollution control dust or sludge from carbon steel production;
- xviii) Basic oxygen furnace and open-hearth furnace slag from carbon steel production;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for USEPA hazardous waste numbers D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (USEPA hazardous waste numbers D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:
- A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
- A) The following conditions must be fulfilled:
 - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

USEPA Hazardous Waste Numbers	Listing Effective Date
K169, K170, K171, and K172	February 8, 1999
K174 and K175	May 7, 2001
K176, K177, and K178	May 20, 2002
K181	August 23, 2005

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- ii) The solid wastes described in subsection (b)(15)(A)(i) were disposed of prior to the effective date of the listing (as set forth in that subsection);
 - iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
 - iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).
- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.
- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.
 - 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
 - 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
- i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.

d) Samples

- 1) Except as provided in subsections (d)(2) and (d)(4), a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
 - A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
 - A) Comply with USDOT, U.S. Postal Service (USPS), or any other

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

applicable shipping requirements; or

- B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- 3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).
- 4) In order to qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.
- e) **Treatability Study Samples**
 - 1) Except as is provided in subsections (e)(2) and (e)(4), a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of RCRA (42 USC 6930). Nor are such samples included in the quantity determinations of 35 Ill. Adm. Code 722.114 and 722.116 when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

facility; or

- C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
- A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
 - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) are met.
 - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f), or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F). The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) In order to qualify for the exemption in subsection (e)(1)(A), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.
- 5) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
 - 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
 - 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).

- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged Material That Is Not a Hazardous Waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:
- "Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- "Permit" means any of the following:
- A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);
 - A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413); or
- In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).
- h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:
- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable;

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications
 - A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.)."

- B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730."

- C) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

(Source: Amended at 43 Ill. Reg. 496, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 722
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
722.120	Amendment
722.121	Amendment
722.124	Amendment
722.Appendix A	Repealed
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rule: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15671; August 17, 2018
- 10) Has JCAR issued a Statement of Objection to these rules? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and the Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rules pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 722 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720, 721, and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of November 1, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

Specifically, the amendments to Part 722 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 722
STANDARDS APPLICABLE TO
GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	
722.101	Definitions
722.105	Electronic Reporting
722.110	Purpose, Scope, and Applicability
722.111	Hazardous Waste Determination
722.112	USEPA Identification Numbers (Repealed)
722.113	Generator Category Determination
722.114	Conditions for Exemption for a Very Small Quantity Generator
722.115	Satellite Accumulation Area Regulations for a Small Quantity Generator or Large Quantity Generator
722.116	Conditions for Exemption for a Small Quantity Generator That Accumulates Hazardous Waste
722.117	Conditions for Exemption for a Large Quantity Generator That Accumulates Hazardous Waste
722.118	USEPA Identification Numbers and Re-Notification for a Small Quantity Generator or Large Quantity Generator

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section	
722.120	General Requirements
722.121	Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
722.122	Number of Copies
722.123	Use of the Manifest
722.124	Use of the Electronic Manifest
722.125	Electronic Manifest Signatures
722.127	Waste Minimization Certification

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: PRE-TRANSPORT REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section

- 722.130 Packaging
- 722.131 Labeling
- 722.132 Marking
- 722.133 Placarding
- 722.134 Accumulation Time (Repealed)
- 722.135 Liquids in Landfills Prohibition

SUBPART D: RECORDKEEPING AND REPORTING REQUIREMENTS
APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

Section

- 722.140 Recordkeeping
- 722.141 Annual Reporting for Large Quantity Generators
- 722.142 Exception Reporting
- 722.143 Additional Reporting
- 722.144 Recordkeeping for Small Quantity Generators

SUBPART E: EXPORTS OF HAZARDOUS WASTE

- 722.150 Applicability (Repealed)
- 722.151 Definitions (Repealed)
- 722.152 General Requirements (Repealed)
- 722.153 Notification of Intent to Export (Repealed)
- 722.154 Special Manifest Requirements (Repealed)
- 722.155 Exception Report (Repealed)
- 722.156 Annual Reports (Repealed)
- 722.157 Recordkeeping (Repealed)
- 722.158 International Agreements (Repealed)

SUBPART F: IMPORTS OF HAZARDOUS WASTE

- 722.160 Imports of Hazardous Waste (Repealed)

SUBPART G: FARMERS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

722.170

Farmers

SUBPART H: TRANSBOUNDARY SHIPMENTS OF
HAZARDOUS WASTE FOR RECOVERY OR DISPOSAL

Section

722.180

Applicability

722.181

Definitions

722.182

General Conditions

722.183

Exports of Hazardous Waste

722.184

Imports of Hazardous Waste

722.185

Contracts (Repealed)

722.186

Provisions Relating to Recognized Traders (Repealed)

722.187

Reporting and Recordkeeping (Repealed)

722.189

OECD Waste Lists (Repealed)

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE
DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR
LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

Section

722.300

Definitions

722.301

Applicability

722.302

Opting into the Subpart K Requirements

722.303

Notice of Election into the Subpart K Requirements

722.304

Notice of Withdrawal from the Subpart K Requirements

722.305

Summary of the Requirements of this Subpart K

722.306

Container Standards in the Laboratory

722.307

Personnel Training

722.308

Removing Unwanted Material from the Laboratory

722.309

Hazardous Waste Determination and Removal of Unwanted Material from the
Laboratory

722.310

Hazardous Waste Determination in the Laboratory

722.311

Hazardous Waste Determination at an On-Site Central Accumulation Area

722.312

Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal
Facility

722.313

Laboratory Clean-Outs

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 722.314 Laboratory Management Plan
722.315 Unwanted Material That Is Not Solid Waste or Hazardous Waste
722.316 Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

SUBPART L: ALTERNATIVE STANDARDS FOR EPISODIC GENERATION

- Section
722.330 Applicability
722.331 Definitions for this Subpart L
722.332 Conditions for a Generator Managing Hazardous Waste from an Episodic Event
722.333 Request to Manage One Additional Episodic Event Per Calendar Year

SUBPART M: PREPAREDNESS, PREVENTION, AND EMERGENCY PROCEDURES FOR LARGE QUANTITY GENERATORS

- Section
722.350 Applicability
722.351 Maintenance and Operation of Facility
722.352 Required Equipment
722.353 Testing and Maintenance of Equipment
722.354 Access to Communications or Alarm System
722.355 Required Aisle Space
722.356 Arrangements with Local Authorities
722.360 Purpose and Implementation of Contingency Plan
722.361 Content of Contingency Plan
722.362 Copies of Contingency Plan
722.363 Amendment of Contingency Plan
722.364 Emergency Coordinator
722.365 Emergency Procedures

722.APPENDIX A Hazardous Waste Manifest ([Repealed](#))

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17763, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1700, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11717, effective August 9, 2016; recodified at 42 Ill. Reg. 11553; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22047, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 563, effective December 6, 2018.

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section 722.120 General Requirements

- a) Manifest Form Required
 - 1) An SQG or LQG that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the [appendix to 40 CFR 262](#) (Uniform Hazardous

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A ~~and Their Instructions~~), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- 2) This subsection (a)(2) corresponds with 40 CFR 262.20(a)(2), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 3) E-Manifest. In lieu of using the manifest form specified in subsection (a)(1), a person required to prepare a manifest under subsection (a)(1) may prepare and use an e-Manifest, provided that the person complies with the following requirements:
 - A) Section 722.124 for use of e-Manifests; and
 - B) 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 720.111, for the reporting of electronic documents to USEPA.
- b) An SQG or LQG must designate on the manifest one receiving facility that is permitted to handle the waste described on the manifest.
- c) An SQG or LQG may also designate on the manifest one alternate receiving facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
- d) If the transporter is unable to deliver the hazardous waste to the designated receiving facility or the alternate facility, the SQG or LQG must either designate another receiving facility or instruct the transporter to return the waste.
- e) The requirements of this Subpart B do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1,000 kg in a calendar month where the following conditions are fulfilled:
 - 1) The waste is reclaimed under a contractual agreement that specifies the type of waste and frequency of shipments;
 - 2) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

by the reclaimer of the waste; and

- 3) The SQG or LQG maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.
- f) The requirements of this Subpart B and Section 722.132(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 35 Ill. Adm. Code 723.110(a), the generator or transporter must comply with the requirements for transporters set forth in 35 Ill. Adm. Code 723.130 and 723.131 in the event of a discharge of hazardous waste on a public or private right-of-way.

(Source: Amended at 43 Ill. Reg. 563, effective December 6, 2018)

Section 722.121 Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests

- a) USEPA exclusively administers requirements for hazardous waste manifest forms and continuation sheets (USEPA Forms 8700-12 and 8700-12A). USEPA prescribes the manifest form format, content, printing, and registration requirements in 40 CFR 262.21.~~USEPA Approval of Manifest~~
- b) Use of Approved Manifests~~A registrant must submit an initial application to the USEPA Director of the Office of Resource Conservation and Recovery that contains the following information:~~
 - 1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from USEPA to print the manifest pursuant to 40 CFR 262.21(c) and (e).~~The name and mailing address of registrant;~~

BOARD NOTE: USEPA maintains a listing of registered sources at <https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>.
 - 2) The waste generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~those regulated federally) as hazardous wastes under these states' authorized programs. The generator must also determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states. The name, telephone number, and email address of contact person;~~

BOARD NOTE: This subsection (b) derives from 40 CFR 262.21(g) (2017). It is the only provision in 40 CFR 262.21 that does not exclusively apply to the form format, content, printing, and registration requirements for manifests.

- ~~1) The name and mailing address of registrant;~~
- ~~2) The name, telephone number, and email address of contact person;~~
- ~~3) A brief description of registrant's government or business activity;~~
- ~~4) The USEPA identification number of the registrant, if applicable;~~
- ~~5) A description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including the following:~~
 - ~~A) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company;~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) ~~A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of 40 CFR 262.21, as described in this Section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be preprinted on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time; and~~
- C) ~~An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase);~~
- 6) ~~A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest;~~
- 7) ~~Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest; and~~
- 8) ~~A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of 40 CFR 262.21, as described in this Section and that it will notify the Agency and~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~the USEPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.~~

- e) ~~USEPA will review the application submitted under subsection (b) and either approve it or request additional information or modification before approving it.~~
- d) ~~Submission of Document Samples~~
 - 1) ~~Upon USEPA approval of the application pursuant to 40 CFR 262.21(c), as described in subsection (c), USEPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in 40 CFR 262.21(d)(3), as described in subsection (d)(3). The registrant's samples must meet all of the specifications in 40 CFR 262.21(f), as described in subsection (f), and be printed by the company that will print the manifest as identified in the application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (c).~~
 - 2) ~~The registrant must submit a description of the manifest samples as follows:~~
 - A) ~~The paper type (i.e., manufacturer and grade of the manifest paper);~~
 - B) ~~The paper weight of each copy;~~
 - C) ~~The ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and~~
 - D) ~~The method of binding the copies.~~
 - 3) ~~The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- e) ~~USEPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until USEPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (e) and the manifest specifications in 40 CFR 262.21(f), as described in subsection (f). It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.~~
- f) ~~Paper manifests and continuation sheets must be printed according to the following specifications:~~
- 1) ~~The manifest and continuation sheet must be printed with the exact format and appearance as USEPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be preprinted on the manifest form.~~
 - 2) ~~A unique manifest tracking number assigned in accordance with a numbering system approved by USEPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.~~
 - 3) ~~The manifest and continuation sheet must be printed on 8½ x 11-inch white paper, excluding common stubs (e.g., top or side bound stubs). The paper must be durable enough to withstand normal use.~~
 - 4) ~~The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in text box or black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.~~
 - 5) ~~The manifest and continuation sheet must be printed as six-copy forms. Copy to copy registration must be exact within 1/32 inch. Handwritten and typed impressions on the form must be legible on all six copies.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.~~

- 6) ~~Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:~~
- A) ~~Page 1 (top copy): "Designated facility to destination State (if required)".~~
 - B) ~~Page 2: "Designated facility to generator State (if required)".~~
 - C) ~~Page 3: "Designated facility to generator".~~
 - D) ~~Page 4: "Designated facility's copy".~~
 - E) ~~Page 5: "Transporter's copy".~~
 - F) ~~Page 6 (bottom copy): "Generator's initial copy."~~
- 7) ~~The instructions in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must appear legibly on the back of the copies of the manifest and continuation sheet as provided in 40 CFR 262.21(f), as described in this subsection (f). The instructions must not be visible through the front of the copies when photocopied or faxed.~~
- A) ~~Manifest Form 8700-22~~
 - i) ~~The "Instructions for Generators" on Copy 6;~~
 - ii) ~~The "Instructions for International Shipment Block" and "Instructions for Transporters" on Copy 5; and~~
 - iii) ~~The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 4.~~
 - B) ~~Manifest Form 8700-22A~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) ~~The "Instructions for Generators" on Copy 6;~~
 - ii) ~~The "Instructions for Transporters" on Copy 5; and~~
 - iii) ~~The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 4.~~

- g) ~~Use of Approved Manifests~~
 - 1) ~~A generator may use manifests printed by any source so long as the source of the printed form has received approval from USEPA to print the manifest pursuant to 40 CFR 262.21(c) and (e), as described in subsections (c) and (e). A registered source may be any of the following:~~
 - A) ~~A state agency;~~
 - B) ~~A commercial printer;~~
 - C) ~~A hazardous waste generator, transporter, or treatment, storage, or disposal facility; or~~
 - D) ~~A hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.~~
 - 2) ~~The waste generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. The generator must also determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.~~

- h) ~~Manifest Revisions~~
 - 1) ~~If an approved registrant would like to update any of the information provided in its application approved by USEPA pursuant to 40 CFR~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~262.21(e), as described in subsection (e) (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the USEPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The USEPA will either approve or deny the revision. If USEPA denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.~~

- ~~2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the USEPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. USEPA will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.~~
- ~~3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval by USEPA pursuant to 40 CFR 262.21(e), as described in this subsection (e), then the registrant must submit three samples of the revised form for USEPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. USEPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until USEPA approves them.~~
- ~~i) If, subsequent to its approval by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e), a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by USEPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. USEPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until USEPA approves them.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- j) ~~USEPA may exempt a registrant from the requirement to submit form samples pursuant to 40 CFR 262.21(d) or (h)(3), as described in subsection (d) or (h)(3), if USEPA is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions, and binding method of the form samples approved for some other registrant). A registrant may request an exemption from USEPA by indicating why an exemption is warranted.~~
- k) ~~An approved registrant must notify USEPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.~~
- l) ~~If, subsequent to approval of a registrant by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e), USEPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, USEPA will contact the registrant and require modifications to the form.~~
- m) ~~Effects of Non-Compliance~~
- 1) ~~USEPA may suspend and, if necessary, revoke printing privileges if we find that the registrant has done either of the following:~~
- A) ~~The registrant has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or~~
- B) ~~The registrant exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.~~
- 2) ~~USEPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, USEPA will send a second letter notifying the registrant that USEPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to the Agency and USEPA if requested.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 43 Ill. Reg. 563, effective December 6, 2018)

Section 722.124 Use of the Electronic Manifest

- a) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed, and transmitted in accordance with Section 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 721 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 721 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - 3) Any requirement in any provision of 35 Ill. Adm. Code 721 through 728 for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed e-Manifest in the generator's account on the national e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized Agency inspector.
 - 4) No generator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the generator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the generator bears no responsibility.

BOARD NOTE: The Board has rendered the language "and requirement in these regulations" in corresponding 35 Ill. Adm. Code 722.124(a) and (a)(1) through (a)(3) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a). The Board intends that

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

use of the e-Manifest System have the same effect in Illinois as it would where the federal requirements directly apply.

- b) A generator may participate in the e-Manifest System either by accessing the e-Manifest System from its own electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.
- c) Restriction on Use of e-Manifests. A generator may ~~use~~prepare an e-Manifest for the tracking of ~~hazardous~~ waste shipments involving any ~~RCRA~~ hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest, except that a generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically~~Manifest System~~.
- d) Requirement for One Printed Copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a generator originating an e-Manifest must also provide the initial transporter with one printed copy of the e-Manifest.
- e) Special Procedures When e-Manifest Is Unavailable. If a generator has prepared an e-Manifest for a hazardous waste shipment, but the e-Manifest System becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (USEPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions ~~referenced in Appendix A~~, and use these paper forms from this point forward in accordance with the requirements of Section 722.123.
- f) Special Procedures for Electronic Signature Methods Undergoing Tests. If a generator has prepared an e-Manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

legal dependability of the signature method, the generator must also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subsection (d).

- g) This subsection (g) corresponds with 40 CFR 262.24(g), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules.~~Imposition of User Fee. A generator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination of each e-Manifest. USEPA shall maintain and update from time to time the current schedule of e-Manifest user fees, which shall be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.~~

~~BOARD NOTE: USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- h) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A generator may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.

(Source: Amended at 43 Ill. Reg. 563, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 722.APPENDIX A Hazardous Waste Manifest (Repealed)

~~The Agency must prepare manifest forms based on the appendix to federal 40 CFR 262, incorporated by reference in 35 Ill. Adm. Code 720.111(b).~~

(Source: Repealed at 43 Ill. Reg. 563, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards Applicable to Transporters of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 723
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
723.120	Amendment
723.121	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rules: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemaking, including any material incorporated by reference, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15694; August 17, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 721 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of November 1, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

Specifically, the amendments to Part 723 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at pcb.illinois.gov.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 723
STANDARDS APPLICABLE TO
TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	Scope
723.110	Scope
723.111	USEPA Identification Number
723.112	Transfer Facility Requirements
723.113	Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section	Scope
723.120	The Manifest System
723.121	Compliance with the Manifest
723.122	Recordkeeping
723.125	Electronic Manifest Signatures

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
723.130	Immediate Action
723.131	Discharge Cleanup

AUTHORITY: Implementing Section 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective January 12, 2015; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22595, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 585, effective December 6, 2018.

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

- a) No Acceptance Without a Manifest
- 1) **Manifest Requirement.** A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A) signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or is provided with an e-Manifest that is obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a valid and enforceable electronic signature as described in 35 Ill. Adm. Code 722.125.
 - 2) **Exports.** For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this Section, as appropriate, and for exports occurring under the terms of a consent issued by USEPA on or after December 31, 2016, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d).
 - 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) Use of e-Manifest – Legal Equivalence to Paper Forms for Participating Transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.
- A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
- B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
- C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.
- D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 263.20(a)(4)(i) through (a)(4)(iv) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.
- 6) Special Procedures When e-Manifest Is Not Available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
- A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.
- B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

available for completing the tracking of the shipment electronically.

- C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.
- D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.
- 7) Special Procedures for Electronic Signature Methods Undergoing Tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i). This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.
- 8) This subsection (a)(8) corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules. Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time-to-time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- 9) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A transporter may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.
- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) In the case of exports occurring under the terms of a consent issued by USEPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by USEPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.184(d) also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
- 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
 - 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) accompanies the hazardous waste;
 - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
- f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:
- 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
 - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
 - B) It must return a signed copy of the manifest to the non-rail transporter;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- C) It must forward at least three copies of the manifest to the following entities:
 - i) The next non-rail transporter, if any;
 - ii) The designated facility, if the shipment is delivered to that facility by rail; or
 - iii) The last rail transporter designated to handle the waste in the United States; and
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
- A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
- 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - B) It must retain a copy of the manifest in accordance with Section 723.122.
- 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- g) Transporters that transport hazardous waste out of the United States must do the following:
- 1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
 - 2) Retain one copy in accordance with Section 723.122(d);
 - 3) Return a signed copy of the manifest to the generator; and
 - 4) For paper manifests only, the transporter must do the following:
 - A) Send a copy of the manifest to the e-Manifest System in accordance with the allowable methods specified in 35 Ill. Adm. Code 724.171(a)(2)(E); and
 - B) For shipments initiated prior to December 31, 2017, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
- h) A transporter transporting hazardous waste from a generator that generates greater than 100 kg (220 lbs) but less than 1,000 kg (2,200 lbs) of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:
- 1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.118) of the generator of the waste;
 - B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;
 - D) The date the waste is accepted; and
- 3) The transporter carries this record when transporting waste to the reclamation facility; and
- 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 43 Ill. Reg. 585, effective December 6, 2018)

Section 723.121 Compliance with the Manifest

- a) Except as provided in subsection (b), the~~The~~ transporter must deliver the entire quantity of hazardous waste which it~~the~~ has accepted from a generator or a transporter to:
 - 1) The designated facility listed on the manifest; or
 - 2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - 3) The next designated transporter; or
 - 4) The place outside the United States designated by the generator.
- b) Non-Delivery of the Hazardous Waste

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)(1), (a)(2), or (a)(4) because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further instructions~~directions~~ and must revise the manifest according to the generator's instructions.

- 2) Transporters Without Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if the conditions of either subsections (b)(2)(A) and (b)(2)(C) or subsections (b)(2)(B) and (b)(2)(C) are true:
 - A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition.

 - B) The current transporter proposes to change the transporters designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

 - C) The generator authorizes the revision.

- 3) Transporters with Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that all of the following conditions are true:
 - A) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) The transporter enters, in Item 14 of each manifest for which such a change is made, the following statement of its generator-agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and
- C) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.
- 4) Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subsection (b)(3) does not affect the generator's liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code, or grant any additional authority to the transporter to act on behalf of the generator.
- c2) If hazardous waste is rejected by the designated facility while the transporter is on the premises of the designated facility, then the transporter must obtain the following, as appropriate:
- 1A) For a partial load rejection or for regulated quantities of container residues: a copy of the original manifest that includes the facility's date and signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with Section 723.122 and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).
- 2B) For a full load rejection that will be taken back by the transporter: a copy of the original manifest that includes the rejecting facility's signature and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and USEPA identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with Section 723.122, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

(Source: Amended at 43 Ill. Reg. 585, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 724
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
724.171	Amendment
724.986	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rules: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemaking, including any material incorporated by reference, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15711; August 17, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 721 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of November 1, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

Specifically, the amendments to Part 724 incorporate elements of the federal e-Manifest System user fees provisions and changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at pcb.illinois.gov.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
724.101	Purpose, Scope, and Applicability
724.103	Relationship to Interim Status Standards
724.104	Electronic Reporting

SUBPART B: GENERAL FACILITY STANDARDS

Section	
724.110	Applicability
724.111	USEPA Identification Number
724.112	Required Notices
724.113	General Waste Analysis
724.114	Security
724.115	General Inspection Requirements
724.116	Personnel Training
724.117	General Requirements for Ignitable, Reactive, or Incompatible Wastes
724.118	Location Standards
724.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section	
724.130	Applicability
724.131	Design and Operation of Facility
724.132	Required Equipment
724.133	Testing and Maintenance of Equipment
724.134	Access to Communications or Alarm System
724.135	Required Aisle Space

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

724.150 Applicability
724.151 Purpose and Implementation of Contingency Plan
724.152 Content of Contingency Plan
724.153 Copies of Contingency Plan
724.154 Amendment of Contingency Plan
724.155 Emergency Coordinator
724.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

724.170 Applicability
724.171 Use of Manifest System
724.172 Manifest Discrepancies
724.173 Operating Record
724.174 Availability, Retention, and Disposition of Records
724.175 Annual Facility Activities Report
724.176 Unmanifested Waste Report
724.177 Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section

724.190 Applicability
724.191 Required Programs
724.192 Groundwater Protection Standard
724.193 Hazardous Constituents
724.194 Concentration Limits
724.195 Point of Compliance
724.196 Compliance Period
724.197 General Groundwater Monitoring Requirements
724.198 Detection Monitoring Program
724.199 Compliance Monitoring Program
724.200 Corrective Action Program

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

724.210 Applicability
724.211 Closure Performance Standard
724.212 Closure Plan; Amendment of Plan
724.213 Closure; Time Allowed ~~for~~ For Closure
724.214 Disposal or Decontamination of Equipment, Structures, and Soils
724.215 Certification of Closure
724.216 Survey Plat
724.217 Post-Closure Care and Use of Property
724.218 Post-Closure Care Plan; Amendment of Plan
724.219 Post-Closure Notices
724.220 Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section

724.240 Applicability
724.241 Definitions of Terms as Used in This Subpart
724.242 Cost Estimate for Closure
724.243 Financial Assurance for Closure
724.244 Cost Estimate for Post-Closure Care
724.245 Financial Assurance for Post-Closure Care
724.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
724.247 Liability Requirements
724.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
724.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

724.270 Applicability
724.271 Condition of Containers
724.272 Compatibility of Waste with Container
724.273 Management of Containers

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.274	Inspections
724.275	Containment
724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure
724.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
724.290	Applicability
724.291	Assessment of Existing Tank System Integrity
724.292	Design and Installation of New Tank Systems or Components
724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
724.297	Closure and Post-Closure Care
724.298	Special Requirements for Ignitable or Reactive Waste
724.299	Special Requirements for Incompatible Wastes
724.300	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section	
724.320	Applicability
724.321	Design and Operating Requirements
724.322	Action Leakage Rate
724.323	Response Actions
724.326	Monitoring and Inspection
724.327	Emergency Repairs; Contingency Plans
724.328	Closure and Post-Closure Care
724.329	Special Requirements for Ignitable or Reactive Waste
724.330	Special Requirements for Incompatible Wastes
724.331	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
724.332	Air Emission Standards

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART L: WASTE PILES

Section

724.350	Applicability
724.351	Design and Operating Requirements
724.352	Action Leakage Rate
724.353	Response Action Plan
724.354	Monitoring and Inspection
724.356	Special Requirements for Ignitable or Reactive Waste
724.357	Special Requirements for Incompatible Wastes
724.358	Closure and Post-Closure Care
724.359	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART M: LAND TREATMENT

Section

724.370	Applicability
724.371	Treatment Program
724.372	Treatment Demonstration
724.373	Design and Operating Requirements
724.376	Food-Chain Crops
724.378	Unsaturated Zone Monitoring
724.379	Recordkeeping
724.380	Closure and Post-Closure Care
724.381	Special Requirements for Ignitable or Reactive Waste
724.382	Special Requirements for Incompatible Wastes
724.383	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART N: LANDFILLS

Section

724.400	Applicability
724.401	Design and Operating Requirements
724.402	Action Leakage Rate
724.403	Monitoring and Inspection
724.404	Response Actions
724.409	Surveying and Recordkeeping

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.410	Closure and Post-Closure Care
724.412	Special Requirements for Ignitable or Reactive Waste
724.413	Special Requirements for Incompatible Wastes
724.414	Special Requirements for Bulk and Containerized Liquids
724.415	Special Requirements for Containers
724.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
724.417	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART O: INCINERATORS

Section	
724.440	Applicability
724.441	Waste Analysis
724.442	Principal Organic Hazardous Constituents (POHCs)
724.443	Performance Standards
724.444	Hazardous Waste Incinerator Permits
724.445	Operating Requirements
724.447	Monitoring and Inspections
724.451	Closure

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section	
724.650	Applicability of Corrective Action Management Unit Regulations
724.651	Grandfathered Corrective Action Management Units
724.652	Corrective Action Management Units
724.653	Temporary Units
724.654	Staging Piles
724.655	Disposal of CAMU-Eligible Wastes in Permitted Hazardous Waste Landfills

SUBPART W: DRIP PADS

Section	
724.670	Applicability
724.671	Assessment of Existing Drip Pad Integrity
724.672	Design and Installation of New Drip Pads
724.673	Design and Operating Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

724.674 Inspections
724.675 Closure

SUBPART X: MISCELLANEOUS UNITS

Section
724.700 Applicability
724.701 Environmental Performance Standards
724.702 Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action
724.703 Post-Closure Care

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section
724.930 Applicability
724.931 Definitions
724.932 Standards: Process Vents
724.933 Standards: Closed-Vent Systems and Control Devices
724.934 Test Methods and Procedures
724.935 Recordkeeping Requirements
724.936 Reporting Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section
724.950 Applicability
724.951 Definitions
724.952 Standards: Pumps in Light Liquid Service
724.953 Standards: Compressors
724.954 Standards: Pressure Relief Devices in Gas/Vapor Service
724.955 Standards: Sampling Connecting Systems
724.956 Standards: Open-ended Valves or Lines
724.957 Standards: Valves in Gas/Vapor or Light Liquid Service
724.958 Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
724.959 Standards: Delay of Repair
724.960 Standards: Closed-Vent Systems and Control Devices
724.961 Alternative Percentage Standard for Valves
724.962 Skip Period Alternative for Valves
724.963 Test Methods and Procedures

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 724.964 Recordkeeping Requirements
724.965 Reporting Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
SURFACE IMPOUNDMENTS, AND CONTAINERS

- Section
724.980 Applicability
724.981 Definitions
724.982 Standards: General
724.983 Waste Determination Procedures
724.984 Standards: Tanks
724.985 Standards: Surface Impoundments
724.986 Standards: Containers
724.987 Standards: Closed-Vent Systems and Control Devices
724.988 Inspection and Monitoring Requirements
724.989 Recordkeeping Requirements
724.990 Reporting Requirements
724.991 Alternative Control Requirements for Tanks (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

- Section
724.1100 Applicability
724.1101 Design and Operating Standards
724.1102 Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

- Section
724.1200 Applicability
724.1201 Design and Operating Standards
724.1202 Closure and Post-Closure Care
- 724.APPENDIX A Recordkeeping Instructions
724.APPENDIX B EPA Report Form and Instructions (Repealed)
724.APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.APPENDIX E Examples of Potentially Incompatible Waste
724.APPENDIX I Groundwater Monitoring List

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11726, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22614, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 601, effective December 6, 2018.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

- a) Receipt of Manifested Hazardous Waste
- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2), to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent must sign and date, ~~by hand,~~ each copy of the manifest;
 - B) The owner, operator, or agent must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
 - E) Paper manifest submission requirements are the following:
 - i) The ~~Within 30 days after delivery,~~ the owner, operator, or agent must send the top copy (Page 1) of any paper ~~the~~ manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing, or in- ~~in~~ lieu of submitting the ~~mailing this~~ paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~data string file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System. Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and~~

ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the e-Manifest System both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest; and

F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3) The owner or operator of a facility receiving hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must do the following:

A) List the relevant consent number from consent documentation

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

supplied by USEPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use Continuation Sheets (USEPA Form 8700–22A); and

- B) Send a copy of the manifest within 30 days of delivery to USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) until the facility can submit such a copy to the e-Manifest system per subsection (a)(2)(E).
- b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 only apply to owners or operators that are shipping hazardous waste that they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under 35 Ill. Adm. Code 722.117(f).
- d) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and competent authorities of all the countries of export and transit that control the shipment as an export or transit of hazardous waste. On or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS, for which the owner or operator of a facility bears no responsibility.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

the consignment state or generator state requires the facility to submit any copies of the manifest to that state.

- f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special Procedures Applicable to Electronic Signature Methods Undergoing Tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- j) Imposition of User Fee for Electronic Manifest Submission~~Manifest Use~~.
- 1) As prescribed in 40 CFR 264.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 264.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an~~An~~ owner or operator that is a user of the e-Manifest System must~~may~~ be assessed a user fee by USEPA for the submission and origination or processing of each e-Manifest and paper manifest. ~~An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection (a)(2)(E).~~ USEPA has stated that it would maintain and update from time to time the current schedule of e-Manifest System user fees and publish them to the user community, as provided in 40 CFR 264.1313, incorporated by reference in 35 Ill. Adm. Code 720.111 ~~which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~
 - 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 264.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 264.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 264.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.
- k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- 1) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any interested person (i.e., any waste handler shown on the manifest or the Agency) may submit any post-receipt data corrections at any time.
 - 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

- 2) Each correction submission must include the following information:
 - A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
- 3) Each correction submission shall include a statement that the person submitting the corrections certifies that, to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
 - A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 43 Ill. Reg. 601, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
SURFACE IMPOUNDMENTS, AND CONTAINERS**Section 724.986 Standards: Containers**

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 724.982(b) references the use of this Section for such air emission control.
- b) General Requirements
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in subsection (b)(2) apply to the container.
 - A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
 - B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
 - C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).
 - 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- c) Container Level 1 Standards
- 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap).
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
 - 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

for the container, as applicable to the container, and secure and maintain each closure device in the closed position, except as follows:

- A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.

- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
 - i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.
- D) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices, as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container, as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (USEPA Form Forms 8700-22 and 8700-22A), incorporated by reference in 35 Ill. Adm. Code 720.111~~, as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).
- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).

- C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater that do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.
- d) Container Level 2 Standards
- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container that operates with no detectable organic emissions, as defined in 35 Ill. Adm. Code 725.981, and determined in accordance with the procedure specified in subsection (g).
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
 - 2) Transfer of hazardous waste in or out of a container using Container Level

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon whichever of the following conditions occurs first: the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

shutdown of the process generating the material being added to the container.

- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.

- E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices, as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~in the appendix to 40 CFR 262~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~(Uniform Hazardous Waste Manifest and Instructions (USEPA Form Forms 8700-22 and 8700-22A and Their Instructions)),~~
incorporated by reference in 35 Ill. Adm. Code 722.111, as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).
 - C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- e) Container Level 3 Standards
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B).
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
 - 2) The owner or operator must meet the following requirements, as

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

applicable to the type of air emission control equipment selected by the owner or operator:

- A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 of "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure", initially when the enclosure is first installed and, thereafter, annually.
 - B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 724.987.
- 3) Safety devices, as defined in 35 Ill. Adm. Code 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
 - 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 724.987.
 - 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 724.989(d).
 - 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation, as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers – General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4).
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings), for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- g) To determine compliance with the no detectable organic emissions requirement of subsection (d)(1)(B), the procedure specified in Section 724.983(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the following: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.
 - 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) Procedure for Determining a Container to be Vapor-Tight Using Reference Method 27 for the Purpose of Complying with Subsection (d)(1)(C)
- 1) The test must be performed in accordance with Reference Method 27.
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.098 in) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.
 - 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 43 Ill. Reg. 601, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 725
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
725.171	Amendment
725.987	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rules: December 6, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted November 1, 2018 in docket R19-3, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 15748; August 17, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between the Proposal and Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R19-3 summarizes the differences between the amendments adopted in the November 1, 2018 opinion and order and those proposed by the Board on July 26, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provide that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 17, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment to Part 725 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of November 1, 2018, adopting amendments in docket R19-3, which opinion and order is available from the address below.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R19-3 to incorporate USEPA amendments adopted during the period January 1, 2018 through June 30, 2018 into the Illinois hazardous waste rules.

Specifically, the amendments to Part 725 incorporate elements of the federal e-Manifest System user fees provisions and changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in docket R19-3, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference docket R19-3 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 1, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at pcb.illinois.gov.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
725.101	Purpose, Scope, and Applicability
725.102	Electronic Reporting
725.104	Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

Section	
725.110	Applicability
725.111	USEPA Identification Number
725.112	Required Notices
725.113	General Waste Analysis
725.114	Security
725.115	General Inspection Requirements
725.116	Personnel Training
725.117	General Requirements for Ignitable, Reactive, or Incompatible Wastes
725.118	Location Standards
725.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section	
725.130	Applicability
725.131	Maintenance and Operation of Facility
725.132	Required Equipment
725.133	Testing and Maintenance of Equipment
725.134	Access to Communications or Alarm System
725.135	Required Aisle Space

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

725.150 Applicability
725.151 Purpose and Implementation of Contingency Plan
725.152 Content of Contingency Plan
725.153 Copies of Contingency Plan
725.154 Amendment of Contingency Plan
725.155 Emergency Coordinator
725.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section

725.170 Applicability
725.171 Use of Manifest System
725.172 Manifest Discrepancies
725.173 Operating Record
725.174 Availability, Retention, and Disposition of Records
725.175 Annual Report
725.176 Unmanifested Waste Report
725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

Section

725.190 Applicability
725.191 Groundwater Monitoring System
725.192 Sampling and Analysis
725.193 Preparation, Evaluation, and Response
725.194 Recordkeeping and Reporting

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

725.210 Applicability
725.211 Closure Performance Standard

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.212	Closure Plan; Amendment of Plan
725.213	Closure; Time Allowed for Closure
725.214	Disposal or Decontamination of Equipment, Structures, and Soils
725.215	Certification of Closure
725.216	Survey Plat
725.217	Post-Closure Care and Use of Property
725.218	Post-Closure Care Plan; Amendment of Plan
725.219	Post-Closure Notices
725.220	Certification of Completion of Post-Closure Care
725.221	Alternative Post-Closure Care Requirements

SUBPART H: FINANCIAL REQUIREMENTS

Section	
725.240	Applicability
725.241	Definitions of Terms as Used in this Subpart H
725.242	Cost Estimate for Closure
725.243	Financial Assurance for Closure
725.244	Cost Estimate for Post-Closure Care
725.245	Financial Assurance for Post-Closure Monitoring and Maintenance
725.246	Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
725.247	Liability Requirements
725.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
725.251	Promulgation of Forms (Repealed)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
725.270	Applicability
725.271	Condition of Containers
725.272	Compatibility of Waste with Containers
725.273	Management of Containers
725.274	Inspections
725.276	Special Requirements for Ignitable or Reactive Wastes
725.277	Special Requirements for Incompatible Wastes
725.278	Air Emission Standards

SUBPART J: TANK SYSTEMS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

725.290	Applicability
725.291	Assessment of Existing Tank System Integrity
725.292	Design and Installation of New Tank Systems or Components
725.293	Containment and Detection of Releases
725.294	General Operating Requirements
725.295	Inspections
725.296	Response to Leaks or Spills and Disposition of Tank Systems
725.297	Closure and Post-Closure Care
725.298	Special Requirements for Ignitable or Reactive Wastes
725.299	Special Requirements for Incompatible Wastes
725.300	Waste Analysis and Trial Tests
725.301	Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month (Repealed)
725.302	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section

725.320	Applicability
725.321	Design and Operating Requirements
725.322	Action Leakage Rate
725.323	Containment System
725.324	Response Actions
725.325	Waste Analysis and Trial Tests
725.326	Monitoring and Inspections
725.328	Closure and Post-Closure Care
725.329	Special Requirements for Ignitable or Reactive Wastes
725.330	Special Requirements for Incompatible Wastes
725.331	Air Emission Standards

SUBPART L: WASTE PILES

Section

725.350	Applicability
725.351	Protection from Wind
725.352	Waste Analysis
725.353	Containment
725.354	Design and Operating Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.355	Action Leakage Rates
725.356	Special Requirements for Ignitable or Reactive Wastes
725.357	Special Requirements for Incompatible Wastes
725.358	Closure and Post-Closure Care
725.359	Response Actions
725.360	Monitoring and Inspections

SUBPART M: LAND TREATMENT

Section	
725.370	Applicability
725.372	General Operating Requirements
725.373	Waste Analysis
725.376	Food Chain Crops
725.378	Unsaturated Zone (Zone of Aeration) Monitoring
725.379	Recordkeeping
725.380	Closure and Post-Closure Care
725.381	Special Requirements for Ignitable or Reactive Wastes
725.382	Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

Section	
725.400	Applicability
725.401	Design Requirements
725.402	Action Leakage Rate
725.403	Response Actions
725.404	Monitoring and Inspections
725.409	Surveying and Recordkeeping
725.410	Closure and Post-Closure Care
725.412	Special Requirements for Ignitable or Reactive Wastes
725.413	Special Requirements for Incompatible Wastes
725.414	Special Requirements for Liquid Wastes
725.415	Special Requirements for Containers
725.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

SUBPART O: INCINERATORS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- Section
- 725.440 Applicability
- 725.441 Waste Analysis
- 725.445 General Operating Requirements
- 725.447 Monitoring and Inspections
- 725.451 Closure
- 725.452 Interim Status Incinerators Burning Particular Hazardous Wastes

SUBPART P: THERMAL TREATMENT

- Section
- 725.470 Other Thermal Treatment
- 725.473 General Operating Requirements
- 725.475 Waste Analysis
- 725.477 Monitoring and Inspections
- 725.481 Closure
- 725.482 Open Burning; Waste Explosives
- 725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Wastes

SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

- Section
- 725.500 Applicability
- 725.501 General Operating Requirements
- 725.502 Waste Analysis and Trial Tests
- 725.503 Inspections
- 725.504 Closure
- 725.505 Special Requirements for Ignitable or Reactive Wastes
- 725.506 Special Requirements for Incompatible Wastes

SUBPART R: UNDERGROUND INJECTION

- Section
- 725.530 Applicability

SUBPART W: DRIP PADS

- Section
- 725.540 Applicability

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.541	Assessment of Existing Drip Pad Integrity
725.542	Design and Installation of New Drip Pads
725.543	Design and Operating Requirements
725.544	Inspections
725.545	Closure

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
725.930	Applicability
725.931	Definitions
725.932	Standards: Process Vents
725.933	Standards: Closed-Vent Systems and Control Devices
725.934	Test Methods and Procedures
725.935	Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
725.950	Applicability
725.951	Definitions
725.952	Standards: Pumps in Light Liquid Service
725.953	Standards: Compressors
725.954	Standards: Pressure Relief Devices in Gas/Vapor Service
725.955	Standards: Sampling Connecting Systems
725.956	Standards: Open-Ended Valves or Lines
725.957	Standards: Valves in Gas/Vapor or Light Liquid Service
725.958	Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other Connectors
725.959	Standards: Delay of Repair
725.960	Standards: Closed-Vent Systems and Control Devices
725.961	Percent Leakage Alternative for Valves
725.962	Skip Period Alternative for Valves
725.963	Test Methods and Procedures
725.964	Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
SURFACE IMPOUNDMENTS, AND CONTAINERS

Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.980	Applicability
725.981	Definitions
725.982	Schedule for Implementation of Air Emission Standards
725.983	Standards: General
725.984	Waste Determination Procedures
725.985	Standards: Tanks
725.986	Standards: Surface Impoundments
725.987	Standards: Containers
725.988	Standards: Closed-Vent Systems and Control Devices
725.989	Inspection and Monitoring Requirements
725.990	Recordkeeping Requirements
725.991	Alternative Tank Emission Control Requirements (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section

725.1100	Applicability
725.1101	Design and Operating Standards
725.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

Section

725.1200	Applicability
725.1201	Design and Operating Standards
725.1202	Closure and Post-Closure Care

725.APPENDIX A	Recordkeeping Instructions
725.APPENDIX B	EPA Report Form and Instructions (Repealed)
725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
725.APPENDIX D	Tests for Significance
725.APPENDIX E	Examples of Potentially Incompatible Wastes
725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 23725, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 634, effective December 6, 2018.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- a) Receipt of Manifested Hazardous Waste
- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2), to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent must sign and date, by hand, each copy of the manifest;
 - B) The owner, operator, or agent must note any discrepancies (as defined in 35 Ill. Adm. Code 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
 - E) Paper manifest submission requirements are the following:
 - i) The~~Within 30 days after delivery, the~~ owner, operator, or agent must send the top copy (Page 1) of any paper~~the~~ manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing. In lieu of submitting the~~mailing this~~ paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a data string file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made at the mailing address or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System. Any data or image files transmitted to the e-Manifest System operator under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

- ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the e-Manifest System both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest System shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System; and

- F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.
- 3) The owner or operator of a facility that receives hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must:
- A) Additionally list the relevant consent number from consent documentation supplied by USEPA to the facility for each waste listed on the hazardous waste manifest (USEPA Form 8700-22), matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use Continuation Sheets (USEPA Form 8700-22A); and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) Send a copy of the manifest to USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) within 30 days of delivery until the facility can submit such a copy to the e-Manifest system per subsection (a)(2)(E).
- b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 apply to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 only apply to an owner or operator that ships hazardous waste which it generated at that facility or operating as an LQG consolidating hazardous waste from VSQGs under 35 Ill. Adm. Code 722.117(f).
- d) As required by 40 CFR 262.84(d)(2)(O), within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and to the competent authorities of the countries of export and transit that control the shipment as an export or transit of hazardous waste. On or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, provided that copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS, for which the owner or operator of a facility bears no responsibility.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.

- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- h) Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special Procedures Applicable to Electronic Signature Methods Undergoing Tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of User Fee for e-Manifest Use
- 1) As prescribed in 40 CFR 265.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 265.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an~~an~~ owner or operator that is

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

a user of the e-Manifest System ~~must~~ may be assessed a user fee by USEPA for the submission and origination or processing of each e-Manifest and paper manifest. ~~An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 725.171(a)(2)(E).~~ USEPA has stated that it would ~~maintain and update from time to time the current schedule of e-Manifest System user fees and publish them to the user community, as provided in 40 CFR 265.1313, incorporated by reference in 35 Ill. Adm. Code 720.111~~ which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

- 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 265.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 265.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.
- k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- l) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any interested person (i.e., any waste handler shown on the manifest or the Agency) may submit any post-receipt data corrections at any time.
 - 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
 - 2) Each correction submission must include the following information:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
- 3) Each correction submission shall include a statement that the person submitting the corrections certifies that, to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
- A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 43 Ill. Reg. 634, effective December 6, 2018)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 725.987 Standards: Containers

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 725.983(b) references the use of this Section for air emission control.
- b) General Requirements.
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the following special provisions for waste stabilization processes specified in subsection (b)(2) apply to the container:
 - A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c);
 - B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c); and
 - C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).
 - 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.
- c) Container Level 1 Standards.
 - 1) A container using Container Level 1 controls is one of the following:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f);
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap); and
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
- 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

adding hazardous waste or other material to the container, as follows:

- i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) If ~~when~~ discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the container internal pressure in accordance with the design specifications of the container. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
- E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Form EPA Forms 8700-22 and 8700-22A and Their Instructions))~~, incorporated by reference in 35 Ill. Adm. Code 720.111(b), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C);
 - B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C); and
 - C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater which do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.
- d) Container Level 2 Standards.
- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation as specified in subsection (f);
 - B) A container that operates with no detectable organic emissions, as defined in Section 725.981, and determined in accordance with the procedure specified in subsection (g); and
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
 - 2) Transfer of hazardous waste into or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
 - B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) For the purpose of meeting the requirements of this Section, an empty container as defined in 35 Ill. Adm. Code 721.107(b) may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and

- E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C);

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C); and
 - C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- e) Container Level 3 Standards.
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B); or
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
 - 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 of "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure", initially when the enclosure is first installed and, thereafter, annually; and

- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 725.988.
- 3) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
- 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 725.988.
- 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 725.990(d).
- 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173(Shippers – General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the federal 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4); and
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings) for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirements of subsection (d)(1)(B), the procedure specified in Section 725.984(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

are associated with containers include, but are not limited to: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

- 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) The procedure for determining a container to be vapor-tight using Reference Method 27 for the purpose of complying with subsection (d)(1)(C) is as follows:
- 1) The test must be performed in accordance with Reference Method 27;
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.10 inch) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness; and
 - 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 43 Ill. Reg. 634, effective December 6, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code Citation: 35 Ill. Adm. Code 739
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
739.100	Amendment
739.110	Amendment
739.120	Amendment
739.122	Amendment
739.124	Amendment
739.130	Amendment
739.131	Amendment
739.132	Amendment
739.140	Amendment
739.141	Amendment
739.144	Amendment
739.145	Amendment
739.146	Amendment
739.150	Amendment
739.152	Amendment
739.154	Amendment
739.156	Amendment
739.160	Amendment
739.161	Amendment
739.163	Amendment
739.164	Amendment
739.165	Amendment
739.166	Amendment
739.170	Amendment
739.174	Amendment
739.175	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) Effective Date of Rules: November 19, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 8) Statement of Availability: The adopted rulemaking, a copy of the Board's opinion and order adopted October 4, 2018 in consolidated docket R17-14/R17-15/R18-12/R18-31, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 12722; July 6, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between Proposal and Final Version: A table in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to consolidated docket R17-14/R17-15/R18-12/R18-31 summarizes the differences between the amendments adopted in the October 4, 2018 opinion and order and those proposed by the Board on May 24, 2018.

The differences are limited to minor corrections suggested by JCAR staff or resulting from the Board's review of its proposal. The changes are not intended to have substantive effect and intend to clarify the rules without deviating from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the July 6, 2018 issue of the *Illinois Register*, the Board received suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated some into the adopted rules, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above. See that Addendum for additional details on JCAR suggestions and the Board actions on each. One table in

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

itemizes changes made in response to various suggestions. Another table indicates suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 739 are a segment larger Board rulemaking. The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking also includes amendments to 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 810 through 812. Due to the extreme volume of the consolidated docket, each Part is covered by a notice in five separate issues of the Illinois Register. Included in this issue are the fifth and final group for publication: 35 Ill. Adm. Code 728, 733, 738, and 739.

Section 22.4(a) of the Environmental Protection Act (Act) [415 ILCS 5/22.4(a)] (2016) requires the Board to adopt hazardous waste rules that are identical-in-substance to United States Environmental Protection Agency's (USEPA's) Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules. Section 22.4(a) requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] (2014). The Illinois hazardous waste rules are in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739. The Board reserved docket R17-14 to incorporate USEPA amendments adopted during the period July 1, 2016 through December 31, 2016 into the Illinois hazardous waste rules. Similarly, the Board reserved docket R18-12 for USEPA hazardous waste rules adopted during the period July 1, 2017 through December 31, 2017 and consolidated it with dockets R17-14, R17-15, and R18-12.

To save space, a more detailed description of the subjects and issues involved in the consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 728. A comprehensive description is contained in the Board's opinion and order of October 4, 2018, adopting amendments in consolidated docket R17-14/R17-15/R18-11/R18-31. The opinion and order is available from the address below.

Specifically, the amendments to Part 739 incorporate USEPA's action of November 28, 2016 adopting the Generator Improvements Rule.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

The consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking further makes numerous corrections and non-substantive stylistic revisions that the Board found are needed.

Tables appear in the Identical-in-Substance Rulemaking Addendum (Final) in consolidated docket R17-14/R17-15/R18-12/R18-31, as described in item 11 above, that list corrections and amendments. Persons interested in the details of those corrections and amendments should refer to the Addendum.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R17-14/R17-15/R18-12/R18-31 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of October 4, 2018 at 312/814-3620. You may also obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 739
STANDARDS FOR THE MANAGEMENT OF USED OIL

SUBPART A: DEFINITIONS

Section
739.100 Definitions

SUBPART B: APPLICABILITY

Section
739.110 Applicability
739.111 Used Oil Specifications
739.112 Prohibitions
739.113 Electronic Reporting

SUBPART C: STANDARDS FOR USED OIL GENERATORS

Section
739.120 Applicability
739.121 Hazardous Waste Mixing
739.122 Used Oil Storage
739.123 On-Site Burning in Space Heaters
739.124 Off-Site Shipments

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS
AND AGGREGATION POINTS

Section
739.130 Do-It-Yourselfer Used Oil Collection Centers
739.131 Used Oil Collection Centers
739.132 Used Oil Aggregate Points Owned by the Generator

SUBPART E: STANDARDS FOR USED OIL TRANSPORTER

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

AND TRANSFER FACILITIES

Section

- 739.140 Applicability
- 739.141 Restrictions on Transporters that Are Not Also Processors
- 739.142 Notification
- 739.143 Used Oil Transportation
- 739.144 Rebuttable Presumption for Used Oil
- 739.145 Used Oil Storage at Transfer Facilities
- 739.146 Tracking
- 739.147 Management of Residues

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section

- 739.150 Applicability
- 739.151 Notification
- 739.152 General Facility Standards
- 739.153 Rebuttable Presumption for Used Oil
- 739.154 Used Oil Management
- 739.155 Analysis Plan
- 739.156 Tracking
- 739.157 Operating Record and Reporting
- 739.158 Off-Site Shipments of Used Oil
- 739.159 Management of Residues

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section

- 739.160 Applicability
- 739.161 Restriction on Burning
- 739.162 Notification
- 739.163 Rebuttable Presumption for Used Oil
- 739.164 Used Oil Storage
- 739.165 Tracking
- 739.166 Notices
- 739.167 Management of Residues

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section

739.170	Applicability
739.171	Prohibitions
739.172	On-Specification Used Oil Fuel
739.173	Notification
739.174	Tracking
739.175	Notices

SUBPART I: DISPOSAL OF USED OIL

Section

739.180	Applicability
739.181	Disposal
739.182	Use As a Dust Suppressant

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6931, effective April 26, 1994; amended in R94-17 at 18 Ill. Reg. 17616, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 10036, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 767, effective December 16, 1997; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2274, effective January 19, 1999; amended in R04-16 at 28 Ill. Reg. 10706, effective July 19, 2004; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4094, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1413, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 13047, effective July 14, 2008; amended in R06-20(A) at 34 Ill. Reg. 3296, effective February 25, 2010; amended in R06-20(B) at 34 Ill. Reg. 17381, effective October 29, 2010; amended in R13-15 at 37 Ill. Reg. 17963, effective October 24, 2013; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 667, effective November 19, 2018.

SUBPART A: DEFINITIONS

Section 739.100 Definitions

Terms that are defined in 35 Ill. Adm. Code 720.110, 721.101, and 731.112 have the same meanings when used in this Part.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank, as defined in 35 Ill. Adm. Code 280.12.

BOARD NOTE: This definition is different from the definition for "aboveground tank" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the main distinction is that the definition for this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks that contain hazardous wastes. This definition of aboveground tank is limited to this Part only.

"Classification", as used in this Part, means a short description of the waste generating activity and designation as either hazardous waste with the appropriate hazardous waste code, nonhazardous used oil, nonhazardous used oil mixture, or nonhazardous other special waste.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation; or for which installation had commenced on or prior to October 4, 1996. Installation will be considered to have commenced if the owner or operator had obtained all federal, state, and local approvals or permits necessary to begin installation of the tank and if either of the following had occurred:

A continuous on-site installation program had begun, or

The owner or operator had entered into contractual obligations that cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

BOARD NOTE: This definition is similar to the definition for "Existing tank system" in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "existing tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates tanks systems that contain hazardous wastes. This definition of existing tank is limited to this Part only.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

BOARD NOTE: Household "do-it-yourselfer" used oil is not subject to the State's special waste hauling permit requirements under Part 809.

"Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.

"New tank" means a tank that will be used to store or process used oil and for which installation had commenced after October 4, 1996.

BOARD NOTE: This definition is similar to the definition given for "New tank system" given in 35 Ill. Adm. Code 720.110. Although the meanings are similar, the definition given above for "new tank" in this Part limits the tanks to those used to store or process used oil, whereas the 720.110 definition contemplates new tanks systems that contain hazardous wastes. This definition of new tank is limited to this Part only.

"Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

"Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Tank" means any stationary device, designed to contain an accumulation of used oil that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Used oil" means any oil that has been refined from crude oil or any synthetic oil that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons [\(208 ℓ\)](#). Used oil aggregation points may also accept used oil from household do-it-yourselfers.

"Used oil burner" means a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a).

"Used oil collection center" means any site or facility that is registered by the Agency to manage used oil and accepts or aggregates and stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ that bring used oil to the collection center in shipments of no more than 55 gallons [\(208 ℓ\)](#) under the provisions of Section 739.124. Used oil collection centers may also accept used oil from household do-it-yourselfers.

"Used oil fuel marketer" means any person that conducts either of the following activities:

Directs a shipment of off-specification used oil from their facility to a used oil burner; or

First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil processor" means a facility that processes used oil.

"Used oil transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other areas where shipments of

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Section 739.120(b)(2). Transfer facilities that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.

"Used oil transporter" means any person that transports used oil, any person that collects used oil from more than one generator and that transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART B: APPLICABILITY

Section 739.110 Applicability

This Section identifies those materials that are subject to regulation as used oil under this Part. This Section also identifies some materials that are not subject to regulation as used oil under this Part, and indicates whether these materials may be subject to regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728.

- a) Used ~~Oil~~^{oil}. Used oil is presumed to be recycled, unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in Section 739.111, the regulations of this Part apply to used oil and to materials identified in this Section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721.
- b) Mixtures of ~~Used Oil~~^{used oil} and ~~Hazardous Waste~~^{hazardous waste}.
 - 1) Listed ~~Hazardous Waste~~^{hazardous waste}.
 - A) A mixture of used oil and hazardous waste that is listed in Subpart D of 35 Ill. Adm. Code 721 is subject to regulation as hazardous

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

waste under 35 Ill. Adm. Code 702, 703, and 720 through 728, rather than as used oil under this Part.

- B) Rebuttable ~~Presumption~~presumption for ~~Used Oil~~used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. An owner or operator may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
- i) This rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. This presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.
 - ii) This rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. This rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- 2) Characteristic ~~Hazardous Waste~~hazardous waste. A mixture of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in Subpart C of 35 Ill. Adm. Code 721 and a mixture of used oil and hazardous waste that is listed in Subpart D ~~of this Part~~ solely because it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 is subject to the following:
- A) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as hazardous waste under 35 Ill. Adm. Code 702, 703, and 720 through 728 rather than as used oil under this Part, if the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

resultant mixture exhibits any characteristics of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. ~~;~~ ~~or~~

- B) Except as provided in subsection (b)(2)(C) ~~of this Section~~, regulation as used oil under this Part, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under Subpart C of 35 Ill. Adm. Code 721.
- C) Regulation as used oil under this Part, if the mixture is of used oil and a waste that is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resultant mixture does not exhibit the characteristic of ignitability under 35 Ill. Adm. Code 721.121.
- 3) ~~VSQG~~ ~~Conditionally exempt small quantity generator~~ ~~Hazardous Waste~~ ~~hazardous waste~~. A mixture of used oil and ~~VSQG~~ ~~conditionally exempt small quantity generator~~ hazardous waste regulated under 35 Ill. Adm. Code ~~722.114~~ ~~721.105~~ is subject to regulation as used oil under this Part.
- c) Materials ~~Containing~~ ~~containing~~ or ~~Otherwise Contaminated~~ ~~otherwise contaminated~~ with ~~Used Oil~~ ~~used oil~~.
- 1) Except as provided in subsection (c)(2) ~~of this Section~~, the following is true of a material containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible so that no visible signs of free-flowing oil remain in or on the material:
- A) The material is not used oil, so it is not subject to this Part; ~~;~~ and
- B) If applicable, the material is subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728.
- 2) A material containing or otherwise contaminated with used oil that is burned for energy recovery is subject to regulation as used oil under this Part.
- 3) Used oil drained or removed from materials containing or otherwise

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

contaminated with used oil is subject to regulation as used oil under this Part.

- d) Mixtures of ~~Used Oil~~ with ~~Products~~.
- 1) Except as provided in subsection (d)(2) ~~of this Section~~, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this Part.
 - 2) Mixtures of used oil and diesel fuel mixed on-site by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of Subpart C ~~of this Part~~.
- e) Materials ~~Derived~~ from ~~Used Oil~~.
- 1) The following is true of materials that are reclaimed from used oil, which are used beneficially, and which are not burned for energy recovery or used in a manner constituting disposal (e.g., re-refined lubricants):
 - A) The materials are not used oil and thus are not subject to this Part;⁵ and
 - B) The materials are not solid wastes and are thus not subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and 720 through 728, as provided in 35 Ill. Adm. Code 721.103(e)(1).
 - 2) Materials produced from used oil that are burned for energy recovery (e.g., used oil fuels) are subject to regulation as used oil under this Part.
 - 3) Except as provided in subsection (e)(4) ~~of this Section~~, the following is true of materials derived from used oil that are disposed of or used in a manner constituting disposal:
 - A) The materials are not used oil and thus are not subject to this Part;⁵ and
 - B) The materials are solid wastes and thus are subject to the hazardous waste regulations of 35 Ill. Adm. Code 702, 703, and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

720 through 728 if the materials are listed or identified as hazardous waste.

- 4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Part.
- f) Wastewater. Wastewater, the discharge of which is subject to regulation under either ~~section~~Section 402 or ~~Section~~ 307(b) of the federal Clean Water Act (including wastewaters at facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Part. For purposes of this subsection, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.
- g) Used ~~Oil Introduced~~~~oil introduced~~ into ~~Crude Oil Pipelines~~~~crude oil pipelines~~ or a ~~Petroleum Refining Facility~~~~petroleum refining facility~~.
 - 1) Used oil mixed with crude oil or natural gas liquids (e.g., in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Part. The used oil is subject to the requirements of this Part prior to the mixing of used oil with crude oil or natural gas liquids.
 - 2) Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Part.
 - 3) Used oil that is inserted into the petroleum refining process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Part, provided that the used oil contains less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining process, the used oil is subject to the requirements of

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

this Part.

- 4) Except as provided in subsection (g)(5) ~~of this Section~~, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Part only if the used oil meets the specification of Section 739.111. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Part.
- 5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Part. This exemption does not extend to used oil that is intentionally introduced into a hydrocarbon recovery system (e.g., by pouring collected used oil into the wastewater treatment system).
- 6) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Part.
- h) Used ~~Oil~~ on ~~Vessels~~ ~~vessels~~. Used oil produced on vessels from normal shipboard operations is not subject to this Part until it is transported ashore.
- i) Used ~~Oil Containing~~ ~~oil-containing~~ PCBs. Used oil containing PCBs, as defined at 40 CFR 761.3 (Definitions), incorporated by reference at 35 Ill. Adm. Code 720.111(b), at any concentration less than 50 ppm is subject to the requirements of this Part unless, because of dilution, it is regulated under federal 40 CFR 761 as a used oil containing PCBs at 50 ppm or greater. PCB-containing used oil subject to the requirements of this Part may also be subject to the prohibitions and requirements of 40 CFR 761, including 40 CFR 761.20(d) and (e). Used oil containing PCBs at concentrations of 50 ppm or greater is not subject to the requirements of this Part, but is subject to regulation under federal 40 CFR 761. No person may avoid these provisions by diluting used oil containing PCBs, unless otherwise specifically provided for in this Part or federal 40 CFR 761.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART C: STANDARDS FOR USED OIL GENERATORS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 739.120 Applicability

- a) General. This Subpart C applies to all generators of used oil, except the following:
- 1) Household "~~Do-It-Yourself~~ ~~do-it-yourselfer~~" ~~Used Oil Generators~~ ~~used oil generators~~. Household "do-it-yourselfer" used oil generators are not subject to regulation under this Part.
 - 2) Vessels. Vessels at sea or at port are not subject to this Subpart C. For purposes of this Subpart C, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the persons removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this Subpart C once the used oil is transported ashore. The co-generators may decide among themselves which party will fulfill the requirements of this Subpart C.
 - 3) Diesel ~~Fuel~~ ~~fuel~~. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this Part once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of this Subpart C.
 - 4) Farmers. Farmers who generate an average of 25 gallons (95 ℓ) per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Part.
- b) Other ~~Applicable Provisions~~ ~~applicable provisions~~. A used oil generator that conducts any of the following activities is subject to the requirements of other applicable provisions ~~of this Part~~, as indicated in subsections (b)(1) through (b)(5):
- 1) A generator that transports used oil, except under the self-transport provisions of Section 739.124(a) and (b), must also comply with Subpart ~~E~~ ~~of this Part~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) A Generator That Processes generator that processes or Re-Refines Used Oil re-refines used oil.
- A) Except as provided in subsection (b)(2)(B) ~~of this Section~~, a generator that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~.
- B) A generator that performs the following activities is not a used oil processor, provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
- i) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
 - ii) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to ~~section~~Section 402 or 307(b) for the federal Clean Water Act (33 USC 1317 or 1342), 40 CFR 403 through 499, or 35 Ill. Adm. Code 310 or 309, governing the discharge of wastewaters;
 - iii) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;
 - iv) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to Section 739.110(c); or
 - v) Filtering, separating, or otherwise reconditioning used oil before burning it in a space heater pursuant to Section 739.123.
- 3) A generator that burns off-specification used oil for energy recovery, except under the on-site space heater provisions of Section 739.123, must also comply with Subpart G ~~of this Part~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) A generator that directs shipments of off-specification used oil from their facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~.
- 5) A generator that disposes of used oil must also comply with Subpart I ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.122 Used Oil Storage

A used oil generator is subject to all applicable federal Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart C. A used oil generator is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart C.

- a) Storage ~~Units~~units. A used oil generator may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of ~~Units~~units. The following must be true of containers and aboveground tanks used to store used oil at a generator facility:
 - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) The containers may not be leaking (no visible leaks).
- c) Labels:
 - 1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil-".
 - 2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities must be labeled or marked clearly with the words "Used Oil-".

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) Response to ~~Releases~~releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a generator must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.22(d) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials;
and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.124 Off-Site Shipments

Except as provided in subsections (a) through (c) ~~of this Section~~, a generator must ensure that its used oil is transported only by transporters that have obtained a USEPA identification number and an Illinois special waste identification number pursuant to 35 Ill. Adm. Code 809.

BOARD NOTE: A generator that qualifies for an exemption under ~~subsections~~Section 739.124(a) through (c) may still be subject to the State's special waste hauling permit requirements under 35 Ill. Adm. Code 809.

- a) ~~Self-Transportation~~Self transportation of ~~Small Amounts~~small amounts to

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~Registered Collection Centers~~~~registered collection centers~~. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that the following conditions are fulfilled:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and
- 3) The generator transports the used oil to a used oil collection center that has registered by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

- b) ~~Self-Transportation~~~~Self transportation~~ of ~~Small Amounts~~~~small amounts~~ to ~~Aggregation Points Owned~~~~aggregation points owned~~ by the ~~Generator~~~~generator~~. A generator may transport, without a USEPA identification number and an Illinois special waste identification number, used oil that is generated at the generator's site to an aggregation point provided that the following conditions are fulfilled:

- 1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
- 2) The generator transports no more than 55 gallons (208 ℓ) of used oil at any time; and
- 3) The generator transports the used oil to an aggregation point that is owned or operated by the same generator.

- c) Tolling ~~Arrangements~~~~arrangements~~. A used oil generator may arrange for used oil to be transported by a transporter without a USEPA identification number and an Illinois special waste identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor to the generator for use as a lubricant, cutting oil, or coolant. The

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

contract (known as a "tolling arrangement") must indicate the following information:

- 1) The type of used oil and the frequency of shipments;
- 2) That the vehicle used to transport the used oil to the processing facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor; and
- 3) That reclaimed oil will be returned to the generator.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART D: STANDARDS FOR USED OIL COLLECTION CENTERS
AND AGGREGATION POINTS

Section 739.130 Do-It-Yourselfer Used Oil Collection Centers

- a) Applicability. This Section applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.
- b) DIY [Used Oil Collection Center Requirements](#)~~used oil collection center requirements~~. Owners or operators of all DIY used oil collection centers must comply with the generator standards in Subpart C ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.131 Used Oil Collection Centers

- a) Applicability. This Section applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts, aggregates or stores used oil collected from used oil generators regulated under Subpart C ~~of this Part~~ who bring used oil to the collection center in shipments of no more than 55 gallons ~~(208 l)~~ under the provisions of Section 739.124(a). Used oil collection centers may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Used [Oil Collection Center Requirements](#)~~oil collection center requirements~~. Owners or operators of all used oil collection centers must do the following:
- 1) Comply with the generator standards in Subpart C~~of this Part~~; and
 - 2) Be registered by the Agency to manage used oil. The used oil collection center must register by written notification with the Agency to manage used oil. This notification must include information sufficient for the Agency to identify, locate and communicate with the facility. The notification must be submitted on forms provided by the Agency.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.132 Used Oil Aggregate Points Owned by the Generator

- a) **Applicability.** This Section applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons [\(208 l\)](#) under the provisions of Section 739.124(b). A used oil aggregation point may also accept used oil from household do-it-yourselfers.

BOARD NOTE: A generator who qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.

- b) Used [Oil Aggregation Point Requirements](#)~~oil aggregation point requirements~~. Owners or operators of all used oil aggregation points must comply with the generator standards in Subpart C~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

**SUBPART E: STANDARDS FOR USED OIL TRANSPORTER
AND TRANSFER FACILITIES**

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 739.140 Applicability

- a) General. Except as provided in subsections (a)(1) through (a)(4)-~~of this Section~~, this Subpart E applies to all used oil transporters. A used oil transporter is a person that transports used oil, a person that collects used oil from more than one generator and transport the collected oil, and an owner or operator of a used oil transfer facility.
- 1) This Subpart E does not apply to on-site transportation.
 - 2) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil collection center as specified in Section 739.124(a).
 - 3) This Subpart E does not apply to a generator that transports shipments of used oil totaling 55 gallons (208 ℓ) or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in Section 739.124(b).
 - 4) This Subpart E does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor, or burner subject to the requirements of this Part. Except as provided in subsections (a)(1) through (a)(3)-~~of this Section~~, this Subpart E does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.
- BOARD NOTE: A generator that qualifies for an exemption under Section 739.124 may still be subject to the State's special waste hauling permit requirements under Part 809.
- b) Imports and ~~Export~~exports. A transporter that imports used oil from abroad or export used oil outside of the United States are subject to the requirements of this Subpart E from the time the used oil enters and until the time it exits the United States.
- c) Trucks ~~Used~~ to Transport Hazardous Waste~~transport hazardous waste~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Unless trucks previously used to transport hazardous waste are emptied as described in 35 Ill. Adm. Code 721.107 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and must be managed as hazardous waste unless, under the provisions of Section 739.110(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

- d) Other ~~Applicable Provisions~~~~applicable provisions~~. A used oil transporter that conducts the following activities are also subject to other applicable provisions of this Part as indicated in subsections (d)(1) through (d)(5)~~of this Section~~:
- 1) A transporter that generates used oil must also comply with Subpart C~~of this Part~~;
 - 2) A transporter that processes or re-refines used oil, except as provided in Section 739.141, must also comply with Subpart F~~of this Part~~;
 - 3) A transporter that burns off-specification used oil for energy recovery must also comply with Subpart G~~of this Part~~;
 - 4) A transporter that directs shipments of off-specification used oil from its facility to a used oil burner or first claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H~~of this Part~~; and
 - 5) A transporter that disposes of used oil must also comply with Subpart I~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.141 Restrictions on Transporters that Are Not Also Processors

- a) A used oil transporter may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in subsection (b)~~of this Section~~, a used oil transporter may not process used oil unless they also comply with the requirements for processors in Subpart F~~of this Part~~.
- b) A transporter may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

oil derived products unless it also complies with the processor requirements in Subpart F ~~of this Part~~.

- c) A transporter of used oil that is removed from oil-bearing electrical transformers and turbines and which is filtered by the transporter or at a transfer facility prior to being returned to its original use is not subject to the processor and re-refiner requirements in Subpart F ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.144 Rebuttable Presumption for Used Oil

- a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(B~~ii~~), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.
- b) The transporter must make this determination by the following means:
- 1) Testing the used oil; or
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
- 1) The rebuttable presumption does not apply to metalworking oils and fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils and fluids. The presumption does apply to metalworking oils and fluids if such oils and fluids are recycled in any other manner, or disposed.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record ~~Retention~~retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the transporter for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.145 Used Oil Storage at Transfer Facilities

A used oil transporter is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart E. A used oil transporter is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart.

- a) **Applicability.** This Section applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. A transfer facility that store used oil for more than 35 days are subject to regulation under Subpart F ~~of this Part~~.
- b) **Storage Units**~~units~~. An owner or operator of a used oil transfer facility may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- c) **Condition of Units**~~units~~. The following must be true of containers and aboveground tanks used to store used oil at a transfer facility:
 - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) The containers may not be leaking (no visible leaks).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) Secondary ~~Containment~~ for ~~Containerse~~containers. Containers used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dikes, berms, or retaining walls; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary ~~Containment~~ for ~~Existing Aboveground Tank~~existing aboveground tanks. Existing aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

- f) Secondary ~~Containment~~ for ~~New Aboveground Tanks~~^{new aboveground tanks}. New aboveground tanks used to store used oil at a transfer facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- g) Labels:
- 1) Containers and aboveground tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil-".
 - 2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities must be labeled or marked clearly with the words "Used Oil-".
- h) Response to ~~Releases~~^{releases}. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, an owner or operator of a transfer facility must perform the following cleanup steps:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: Corresponding 40 CFR 279.45(h) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials;
and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.146 Tracking

- a) Acceptance. A used oil transporter must keep a record of each used oil shipment accepted for transport. Records for each shipment must include the following:
 - 1) The name and address of the generator, transporter, or processor that provided the used oil for transport;
 - 2) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator, transporter, or processor that provided the used oil for transport;
 - 3) The quantity of used oil accepted;
 - 4) The date of acceptance;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 5) The signature:
 - A) Except as provided in subsection (a)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor or re-refiner that provided the used oil for transport.
 - B) An intermediate rail transporter is not required to sign the record of acceptance; and
 - 6) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- b) Deliveries. A used oil transporter must keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor, or disposal facility. Records of each delivery must include the following:
- 1) The name and address of the receiving facility or transporter;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The USEPA identification number and Illinois special waste identification number of the receiving facility or transporter;
- 3) The quantity of used oil delivered;
- 4) The date of delivery;
- 5) The signature:
 - A) Except as provided in subsection (b)(5)(B) ~~of this Section~~, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
 - B) An intermediate rail transporter is not required to sign the record of acceptance.
- c) Exports of ~~Used Oil~~ ~~used oil~~. A used oil transporter must maintain the records described in subsections (b)(1) through (b)(4) ~~of this Section~~ for each shipment of used oil exported to any foreign country.
- d) Record ~~Retention~~ ~~retention~~. The records described in subsections (a), (b), and (c) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART F: STANDARDS FOR USED OIL PROCESSORS

Section 739.150 Applicability

- a) The requirements of this Subpart F apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to the following: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation, and re-refining. The requirements of this Subpart F do not apply to the following:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) A transporter that conducts incidental processing operations that occur during the normal course of transportation, as provided in Section 739.141; or
 - 2) A burner that conducts incidental processing operations that occur during the normal course of used oil management prior to burning, as provided in Section 739.161(b).
- b) Other Applicable Provisions~~applicable provisions~~. A used oil processor that conducts the following activities are also subject to the requirements of other applicable provisions of this Part, as indicated in subsections (b)(1) through (b)(5) ~~of this Section~~.
- 1) A processor that generates used oil must also comply with Subpart C ~~of this Part~~;
 - 2) A processor that transports used oil must also comply with Subpart E ~~of this Part~~;
 - 3) Except as provided in subsections (b)(3)(A) and (b)(3)(B) ~~of this Section~~, a processor that burns off-specification used oil for energy recovery must also comply with Subpart G ~~of this Part~~. Processors burning used oil for energy recovery under the following conditions are not subject to Subpart G ~~of this Part~~:
 - A) The used oil is burned in an on-site space heater that meets the requirements of Section 739.123; or
 - B) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
 - 4) A processor that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and
 - 5) A processor that disposes of used oil also must comply with Subpart I ~~of this Part~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.152 General Facility Standards

- a) Preparedness and ~~Prevention~~prevention. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
- 1) Maintenance and ~~Operation~~operation of a ~~Facility~~facility. All facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment.
 - 2) Required ~~Equipment~~equipment. All facilities must be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in this subsections ~~(a)(2)(A) through (a)(2)(D) of this Section~~:
 - A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
 - B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;
 - C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and
 - D) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.
 - 3) Testing and ~~Maintenance~~maintenance of ~~Equipment~~equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

be tested and maintained as necessary to assure its proper operation in time of emergency.

- 4) Access to ~~Communication~~communications or ~~Alarm System~~alarm system
 - A) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (a)(2)~~of this Section~~.
 - B) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (a)(2)~~of this Section~~.
- 5) Required ~~Aisle Space~~aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.
- 6) Arrangements with ~~Local Authorities~~local authorities
 - A) The owner or operator must attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
 - i) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- ii) ~~If~~Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
 - iii) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
 - iv) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
- B) Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.
- b) Contingency ~~Plan~~plan and ~~Emergency Procedures~~emergency procedures. An owner or operator of a used oil processing or re-refining facility must comply with the following requirements:
- 1) Purpose and ~~Implementation~~implementation of ~~Contingency Plan~~contingency plan.
 - A) Each owner or operator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.
 - B) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
 - 2) Content of ~~Contingency Plan~~contingency plan.
 - A) The contingency plan must describe the actions facility personnel

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

must take to comply with subsections (b)(1) and (b)(6) ~~of this Section~~ in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility.

- B) If the owner or operator has already prepared a Spill Prevention Control and Countermeasures (SPCC) Plan in accordance with federal 40 CFR 112 or some other emergency or contingency plan exists for the facility under federal, State, or local regulation (e.g., federal 40 CFR 300 or 40 CFR 280), the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Part.
- C) The plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to subsection (a)(6) ~~of this Section~~.
- D) The plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (b)(5) ~~of this Section~~), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.
- E) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.
- F) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

fires).

- 3) Copies of ~~Contingency Plan~~contingency plan. Copies of the contingency plan and all revisions to the plan must be disposed of as follows:
 - A) Maintained at the facility; and
 - B) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.
- 4) Amendment of ~~Contingency Plan~~contingency plan. The contingency plan must be reviewed, and immediately amended, if necessary, whenever one of the following occurs:
 - A) Applicable regulations are revised;
 - B) The plan fails in an emergency;
 - C) The facility changes – in its design, construction, operation, maintenance, or other circumstances – in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
 - D) The list of emergency coordinators changes; or
 - E) The list of emergency equipment changes.
- 5) Emergency ~~Coordinator~~coordinator. At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: USEPA cited the following as guidance: "The emergency coordinator's responsibilities are more fully spelled out in ~~paragraph~~subsection (b)(6) of this Section]. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility:" in the note appended to corresponding 40 CFR 279.52(b)(5).

- 6) Emergency ~~Procedures~~procedures
- A) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) must immediately do the following:
 - i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
 - ii) Notify appropriate State or local agencies with designated response roles if their help is needed.
 - B) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He or she may do this by observation or review of facility records or manifests and, if necessary, by chemical analyses.
 - C) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).
 - D) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she must report his findings as follows:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) If his assessment indicated that evacuation of local areas may be advisable, he or she must immediately notify appropriate local authorities. He or she must be available to help appropriate officials decide whether local areas should be evacuated; and
 - ii) He must immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under federal 40 CFR 300), or the National Response Center (using their 24-hour toll free number (800) 424-8802). The report must include the following information: name and telephone number of reporter; name and address of facility; time and type of incident (e.g., release, fire); name and quantity of materials involved, to the extent known; the extent of injuries, if any; and the possible hazards to human health, or the environment, outside the facility.
- E) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures must include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.
- F) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- G) Immediately after an emergency, the emergency coordinator must provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.
- H) The emergency coordinator must ensure that the following occur, in the affected areas of the facility:
 - i) No waste or used oil that may be incompatible with the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; ~~and~~

- ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; ~~and~~
- iii) The owner or operator must notify the Agency, and all other appropriate State and local authorities that the facility is in compliance with subsections (b)(6)(H)(i) and (b)(6)(H)(ii) ~~of this Section~~ before operations are resumed in the affected areas of the facility.

D) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, it must submit a written report on the incident to USEPA Region 5. The report must include the following:

- i) The name, address, and telephone number of the owner or operator;
- ii) The name, address, and telephone number of the facility;
- iii) The date, time, and type of incident (e.g., fire, explosion);
- iv) The name and quantity of materials involved;
- v) The extent of injuries, if any;
- vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- vii) The estimated quantity and disposition of recovered material that resulted from the incident.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.154 Used Oil Management

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

A used oil processor is subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR 112) in addition to the requirements of this Subpart F. A used oil processor or re-refiner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart F.

- a) Management Units~~units~~. A used oil processor may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or 725.
- b) Condition of Units~~units~~. The following must be true of containers and aboveground tanks used to store or process used oil at a processing facility:
 - 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) The containers may not be leaking (no visible leaks).
- c) Secondary Containment~~containment~~ for Containers~~containers~~. Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
 - 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) Secondary ~~Containment~~ for Existing Aboveground Tanks~~existing aboveground tanks~~. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary ~~Containment~~ for New Aboveground Tanks~~new aboveground tanks~~. New aboveground tanks used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels:
- 1) Containers and aboveground tanks used to store used oil at processing facilities must be labeled or marked clearly with the words "Used Oil-".
- 2) Fill pipes used to transfer used oil into underground storage tanks at processing facilities must be labeled or marked clearly with the words "Used Oil-".
- g) Response to ~~Releases~~releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a processor must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.54(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located-". The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located-," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials;
and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.
- h) Closure:
- 1) Aboveground Tankstanks. An owner or operator that stores or processes used oil in aboveground tanks must comply with the following requirements:
 - A) At closure of a tank system, the owner or operator must remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter.
 - B) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (h)(1)(A) ~~of this Section~~, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (35 Ill. Adm. Code 725.410).
 - 2) Containers. An owner or operator that stores used oil in containers must comply with the following requirements:
 - A) At closure, containers holding used oils or residues of used oil must be removed from the site;
 - B) The owner or operator must remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste 35 Ill. Adm. Code 721.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 739.156 Tracking

- a) Acceptance. A used oil processor must keep a record of each used oil shipment accepted for processing. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the processor;
 - 2) The name and address of the generator or processor from whom the used oil was sent for processing;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the processor;
 - 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent for processing;
 - 5) The quantity of used oil accepted;
 - 6) The date of acceptance; and
 - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

- b) Deliveries. A used oil processor must keep a record of each shipment of used oil that is delivered to another used oil burner, processor, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records of each delivery must include the following information:
- 1) The name and address of the transporter that delivers the used oil to the burner, processor, or disposal facility;
 - 2) The name and address of the burner, processor, or disposal facility that will receive the used oil;
 - 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner, processor or disposal facility;
 - 4) The USEPA identification number and Illinois special waste identification number of the burner, processor, or disposal facility that will receive the used oil;
 - 5) The quantity of used oil shipped;
 - 6) The date of shipment; and
 - 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

transporter;

- C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
- D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."
- c) Record ~~Retention~~retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART G: STANDARDS FOR USED OIL BURNERS THAT BURN
OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY

Section 739.160 Applicability

- a) General. The requirements of this Subpart G apply to used oil burners except as specified in subsections (a)(1) and (a)(2) ~~of this Section~~. A used oil burner is a facility where used oil not meeting the specification requirements in Section 739.111 is burned for energy recovery in devices identified in Section 739.161(a). Facilities burning used oil for energy recovery under the following conditions are not subject to this Subpart G:
- 1) The used oil is burned by the generator in an on-site space heater under the provisions of Section 739.123; or
 - 2) The used oil is burned by a processor for purposes of processing used oil,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

which is considered burning incidentally to used oil processing.

- b) Other ~~Applicable Provisions~~~~applicable provisions~~. A used oil burner that conducts the following activities is also subject to the ~~indicated requirements of other applicable~~ provisions of this Part: ~~as indicated below~~.
- 1) A burner that generates used oil must also comply with Subpart C ~~of this Part~~;
 - 2) A burner that transports used oil must also comply with Subpart E ~~of this Part~~;
 - 3) Except as provided in Section 739.161(b), a burner that processes or re-refines used oil must also comply with Subpart F ~~of this Part~~;
 - 4) A burner that directs shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111 must also comply with Subpart H ~~of this Part~~; and
 - 5) A burner that disposes of used oil must comply with Subpart I ~~of this Part~~.
- c) Specification ~~Fuel~~~~fuel~~. This Subpart G does not apply to a person burning used oil that meets the used oil fuel specification of Section 739.111, provided that the burner complies with the requirements of Subpart H ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.161 Restriction on Burning

- a) Off-specification used oil fuel may only be burned for energy recovery in the following devices:
- 1) Industrial furnaces identified in 35 Ill. Adm. Code 720.110;
 - 2) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are identified as follows:
 - A) Industrial boilers located on the site of a facility engaged in a

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

- B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
 - C) Used oil-fired space heaters provided that the burner meets the provisions of Section 739.123; or
- 3) Hazardous waste incinerators subject to regulation under Subpart O of 35 Ill. Adm. Code 724 or 725.
- b) Restrictions-
- 1) With the following exception, a used oil burner may not process used oil unless it also complies with the requirements of Subpart F ~~of this Part~~.
 - 2) A used oil burner may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of producing on-specification used oil.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.163 Rebuttable Presumption for Used Oil

- a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Section 739.110(b)(1)(ii), a used oil burner must determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.
- b) The used oil burner must determine if the used oil contains above or below 1,000 ppm total halogens by the following means:
 - 1) Testing the used oil;
 - 2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) If the used oil has been received from a processor subject to regulation under Subpart F ~~of this Part~~, using information provided by the processor.
- c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix H of 35 Ill. Adm. Code 721).
 - 1) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in Section 739.124(c), to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils and fluids are recycled in any other manner, or disposed.
 - 2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.
- d) Record ~~Retention~~retention. Records of analyses conducted or information used to comply with subsections (a), (b), and (c) ~~of this Section~~ must be maintained by the burner for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.164 Used Oil Storage

A used oil burner is subject to all applicable Spill Prevention, Control and Countermeasures (federal 40 CFR 112) in addition to the requirements of this Subpart G. A used oil burner is also subject to the Underground Storage Tank (35 Ill. Adm. Code 731) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this Subpart G.

- a) Storage ~~Units~~units. A used oil burner may not store used oil in units other than tanks, containers, or units subject to regulation under 35 Ill. Adm. Code 724 or

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

725.

- b) Condition of ~~Units~~~~units~~. The following must be true of containers and aboveground tanks used to store used oil at a burner facility:
- 1) The containers must be in good condition (no severe rusting, apparent structural defects or deterioration); and
 - 2) The containers may not be leaking (no visible leaks).
- c) Secondary ~~Containment~~~~containment~~ for ~~Containerse~~~~containers~~. Containers used to store used oil at a burner facility must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Dikes, berms, or retaining walls; and
 - B) A floor. The floor must cover the entire area within the dike, berm, or retaining wall.
 - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- d) Secondary ~~Containment~~~~containment~~ for ~~Existing Aboveground Tank~~~~existing aboveground tanks~~. Existing aboveground tanks used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

- B) An equivalent secondary containment system.
- 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- e) Secondary ~~Containment~~ for New Aboveground Tanks~~new aboveground tanks~~. A new aboveground tank used to store used oil at burner facilities must be equipped with a secondary containment system.
- 1) The secondary containment system must consist of the following, at a minimum:
 - A) Both of the following:
 - i) Dikes, berms, or retaining walls; and
 - ii) A floor. The floor must cover the entire area within the dike, berm, or retaining wall; or
 - B) An equivalent secondary containment system.
 - 2) The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
- f) Labels:
- 1) A container or aboveground tank used to store used oil at a burner facility must be labeled or marked clearly with the words "Used Oil:".
 - 2) Fill pipes used to transfer used oil into underground storage tanks at burner facilities must be labeled or marked clearly with the words "Used Oil:".

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- g) Response to ~~Releases~~ releases. Upon detection of a release of used oil to the environment that is not subject to the federal requirements of subpart F of 40 CFR 280 and which has occurred after October 4, 1996, a burner must perform the following cleanup steps:

BOARD NOTE: Corresponding 40 CFR 279.64(g) applies to releases that "occurred after the effective date of the authorized used oil program for the State in which the release is located." The Board adopted the used oil standards in docket R93-4 at 17 Ill. Reg. 20954, effective November 22, 1993. USEPA approved the Illinois standards at 61 Fed. Reg. 40521 (Aug. 5, 1996), effective October 4, 1996. The Board has interpreted "the effective date of the authorized used oil program" to mean the October 4, 1996 date of federal authorization of the Illinois program, and we substituted that date for the federal effective date language. Had USEPA written something like "the effective date of the used oil program in the authorized State in which the release is located," the Board would have used the November 22, 1993 effective date of the Illinois used oil standards.

- 1) Stop the release;
- 2) Contain the released used oil;
- 3) Properly clean up and manage the released used oil and other materials;
and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.165 Tracking

- a) Acceptance. A used oil burner must keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment must include the following information:
- 1) The name and address of the transporter that delivered the used oil to the burner;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) The name and address of the generator or processor from whom the used oil was sent to the burner;
- 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivered the used oil to the burner;
- 4) The USEPA identification number and Illinois special waste identification number (if applicable) of the generator or processor from whom the used oil was sent to the burner;
- 5) The quantity of used oil accepted;
- 6) The date of acceptance; and
- 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true."

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) Record ~~Retention~~retention. The records described in subsection (a) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.166 Notices

- a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor, the burner must provide to the generator, transporter, or processor a one-time written and signed notice certifying the following:
- 1) That the burner has notified USEPA stating the location and general description of his used oil management activities; and
 - 2) That the burner will burn the used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification ~~Retention~~retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

SUBPART H: STANDARDS FOR USED OIL FUEL MARKETERS

Section 739.170 Applicability

- a) Any person that conducts either of the following activities is subject to the requirements of this Subpart H:
- 1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or
 - 2) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Section 739.111.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) The following persons are not marketers subject to this Subpart H:
- 1) A used oil generator, or a transporter that transports used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from its facility to a used oil burner. However, a processor that burns some used oil fuel for purposes of processing is considered to be burning incidentally to processing. Thus, generator or transporter that directs shipments of off-specification used oil to a processor that incidentally burns used oil is not a marketer subject to this Subpart H;
 - 2) A person that directs shipments of on-specification used oil and which is not the first person to claim the oil meets the used oil fuel specifications of Section 739.111.
- c) Any person subject to the requirements of this Subpart H must also comply with one of the following:
- 1) Subpart C ~~– Standard of this Part – Standards~~ for Used Oil Generators;
 - 2) Subpart E ~~– Standard of this Part – Standards~~ for Used Oil Transporters and Transfer Facilities;
 - 3) Subpart F ~~– Standard of this Part – Standards~~ for Used Oil Processors and Re-refiners; or
 - 4) Subpart G ~~– Standard of this Part – Standards~~ for Used Oil Burners that Burn Off-Specification Used Oil for Energy Recovery.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.174 Tracking

- a) ~~Off-specification used oil delivery~~ **Off-Specification Used Oil Delivery**. Any used oil fuel marketer that directs a shipment of off-specification used oil to a burner must keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment must include the following information:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The name and address of the transporter that delivers the used oil to the burner;
- 2) The name and address of the burner that will receive the used oil;
- 3) The USEPA identification number and Illinois special waste identification number of the transporter that delivers the used oil to the burner;
- 4) The USEPA identification number and Illinois special waste identification number of the burner;
- 5) The quantity of used oil shipped;
- 6) The date of shipment; and
- 7) If the transporter has accepted any shipment of mixtures of used oil and materials identified in 35 Ill. Adm. Code 808.121(b)(5) or (b)(6), the following:
 - A) Information stating when and where the special waste was generated;
 - B) The classification and quantity of the special waste delivered to the transporter;
 - C) Any special handling instructions pertinent to emergency personnel in the event of an accident; and
 - D) A generator's certification as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgement of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

quantity generator) is true."

- b) ~~On-specification used oil delivery~~On-specification used oil delivery. A generator, transporter, processor or re-refiner, or burner that first claims that used oil that is to be burned for energy recovery meets the fuel specifications under Section 739.111 must keep a record of each shipment of used oil to the facility to which it delivers the used oil. Records for each shipment must include the following information:
- 1) The name and address of the facility receiving the shipment;
 - 2) The quantity of used oil fuel delivered;
 - 3) The date of shipment or delivery; and
 - 4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under Section 739.172(a).
- c) Record ~~Retention~~retention. The records described in subsections (a) and (b) ~~of this Section~~ must be maintained for at least three years.

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

Section 739.175 Notices

- a) Certification. Before a used oil generator, transporter, or processor directs the first shipment of off-specification used oil fuel to a burner, it must obtain a one-time written and signed notice from the burner certifying the following:
- 1) That the burner has notified USEPA stating the location and general description of used oil management activities; and
 - 2) That the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 739.161(a).
- b) Certification ~~Retention~~retention. The certification described in subsection (a) ~~of this Section~~ must be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 42 Ill. Reg. 667, effective November 19, 2018)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2850 Adopted Action:
New Section
- 4) Statutory Authority: 35 ILCS 5/203(d)(2)(H).
- 5) Effective Date of Rule: December 18, 2018
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 15198, December 26, 2017
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: The differences between the proposal and the final version are cosmetic and grammatical and changes to the manner of citing the Internal Revenue Code.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
100.3370	Amendment	42 Ill. Reg. 19605, November 9, 2018
100.3380	Amendment	42 Ill. Reg. 19605, November 9, 2018
100.3600	New Section	42 Ill. Reg. 19605, November 9, 2018
100.5220	Amendment	42 Ill. Reg. 19605, November 9, 2018

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

100.5270	Amendment	42 Ill. Reg. 19605, November 9, 2018
100.9700	Amendment	42 Ill. Reg. 19605, November 9, 2018
100.Appendix A	Repealed	42 Ill. Reg. 19605, November 9, 2018
100.Table A	Repealed	42 Ill. Reg. 19605, November 9, 2018
100.Table B	Repealed	42 Ill. Reg. 19605, November 9, 2018

- 15) Summary and Purpose of Rulemaking: This rulemaking provides guidance for determining the amount of the subtraction allowed to partnerships under IITA Section 203(d)(2)(H) for personal service income or for a reasonable allowance for compensation for services rendered by partners.
- 16) Information and questions regarding this adopted rule shall be directed to:

Brian Stocker
Staff Attorney
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62796

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2055	Standard Exemption (IITA Section 204)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2175	Invest in Kids Credit (IITA 224)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
- 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
- 100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986 (IITA Section 207)
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
- 100.2360 Illinois Net Losses and Illinois Net Loss Deductions for Losses of Cooperatives Occurring On or After December 31, 1986 (IITA Section 203(e)(2)(F))

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2465 Claim of Right Repayments (IITA Section 203(a)(2)(P), (b)(2)(Q), (c)(2)(P) and (d)(2)(M))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section	
100.2510	Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
100.2565	Subtraction for Recovery of Itemized Deductions (IITA Section 203(a)(2)(I))
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF CORPORATIONS

Section	
100.2655	Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657	Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2665	Subtraction for Payments to an Attorney-in-Fact (IITA Section 203(b)(2)(R))
100.2668	Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2770	Subtraction for Recovery of Itemized Deductions of a Decedent (IITA Section 203(c)(2)(W))
100.2775	Subtraction for Refunds of Taxes Paid to Other States for Which a Credit Was Claimed (IITA Section 203(C)(2)(X))

SUBPART I: BASE INCOME OF PARTNERSHIPS

<u>Section</u>	
<u>100.2850</u>	<u>Subtraction Modification for Personal Service Income or Reasonable Allowance for Compensation to Partners (IITA Section 203(d)(2)(H))</u>

SUBPART J: GENERAL RULES OF ALLOCATION AND
APPORTIONMENT OF BASE INCOME

Section

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3015	Business Income Election (IITA Section 1501)
100.3020	Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section

100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3200	Taxability in Other State (IITA Section 303)
100.3210	Commercial Domicile (IITA Section 303)
100.3220	Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

100.3300	Allocation and Apportionment of Base Income (IITA Section 304)
100.3310	Business Income of Persons Other Than Residents (IITA Section 304) – In General
100.3320	Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
100.3330	Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
100.3340	Business Income of Persons Other Than Residents (IITA Section 304)
100.3350	Property Factor (IITA Section 304)
100.3360	Payroll Factor (IITA Section 304)
100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
100.3373	Sales Factor for Publishing
100.3380	Special Rules (IITA Section 304)
100.3390	Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400	Apportionment of Business Income of Financial Organizations for Taxable Years

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- Ending Prior to December 31, 2008 (IITA Section 304(c))
- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3450 Apportionment of Business Income of Transportation Companies (IITA Section 304(d))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

- Section
- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

- Section
- 100.5000 Time for Filing Returns (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions (IITA Section 501(b))
- 100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

SUBPART P: COMPOSITE RETURNS

- Section
- 100.5100 Composite Returns: Eligibility (IITA Section 502(f))
- 100.5110 Composite Returns: Responsibilities of Authorized Agent
- 100.5120 Composite Returns: Individual Liability
- 100.5130 Composite Returns: Required forms and computation of Income (IITA Section 502(f))
- 100.5140 Composite Returns: Estimated Payments
- 100.5150 Composite Returns: Tax, Penalties and Interest

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 100.5160 Composite Returns: Credits on Separate Returns
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
- 100.5180 Composite Returns: Overpayments and Underpayments

SUBPART Q: COMBINED RETURNS

Section

- 100.5200 Filing of Combined Returns
- 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
- 100.5205 Election to File a Combined Return
- 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
- 100.5215 Filing of Separate Unitary Returns (IITA Section 304(e))
- 100.5220 Designated Agent for the Members
- 100.5230 Combined Estimated Tax Payments
- 100.5240 Claims for Credit of Overpayments
- 100.5250 Liability for Combined Tax, Penalty and Interest
- 100.5260 Combined Amended Returns
- 100.5265 Common Taxable Year
- 100.5270 Computation of Combined Net Income and Tax
- 100.5280 Combined Return Issues Related to Audits

SUBPART R: PAYMENTS

Section

- 100.6000 Payment on Due Date of Return (IITA Section 601)

SUBPART S: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section

- 100.7000 Requirement of Withholding (IITA Section 701)
- 100.7010 Compensation Paid in this State (IITA Section 701)
- 100.7020 Transacting Business Within this State (IITA Section 701)
- 100.7030 Payments to Residents (IITA Section 701)
- 100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
- 100.7040 Employer Registration (IITA Section 701)
- 100.7050 Computation of Amount Withheld (IITA Section 702)
- 100.7060 Additional Withholding (IITA Section 701)
- 100.7070 Voluntary Withholding (IITA Section 701)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

- 100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
- 100.7090 Reciprocal Agreement (IITA Section 701)
- 100.7095 Cross References

SUBPART T: AMOUNT EXEMPT FROM WITHHOLDING

Section

- 100.7100 Withholding Exemption (IITA Section 702)
- 100.7110 Withholding Exemption Certificate (IITA Section 702)
- 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART U: INFORMATION STATEMENT

Section

- 100.7200 Reports for Employee (IITA Section 703)

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

- 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
- 100.7310 Returns Filed and Payments Made on Annual Basis (IITA Sections 704 and 704A)
- 100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
- 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7380 Economic Development for a Growing Economy (EDGE) and Small Business Job Creation Credit (IITA Section 704A(g) and (h))

SUBPART W: ESTIMATED TAX PAYMENTS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART X: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART Y: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART Z: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART AA: DEFICIENCIES AND OVERPAYMENTS

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART BB: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART CC: INVESTIGATIONS AND HEARINGS

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Section

100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

SUBPART DD: JUDICIAL REVIEW

Section

100.9600	Administrative Review Law (IITA Section 1201)
----------	---

SUBPART EE: DEFINITIONS

Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9715	Transportation Companies (IITA Section 304(d))
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART FF: LETTER RULING PROCEDURES

Section

100.9800	Letter Ruling Procedures
----------	--------------------------

SUBPART GG: MISCELLANEOUS

Section

100.9900	Tax Shelter Voluntary Compliance Program
100.9910	State Tax Preparer Oversight Act [35 ILCS 35]

100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016; amended at 40 Ill. Reg. 15575, effective November 2, 2016; amended at 41 Ill. Reg. 4193, effective March 27, 2017; amended at 41 Ill. Reg. 6379, effective May 22, 2017; amended at 41 Ill. Reg. 10662, effective August 3, 2017; amended at 41 Ill. Reg. 12608, effective September 21, 2017; amended at 41 Ill. Reg. 14217, effective November 7, 2017; emergency amendment at 41 Ill. Reg. 15097, effective November 30, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4953, effective February 28, 2018; amended at 42 Ill. Reg. 6451, effective March 21, 2018; recodified Subpart H to Subpart G at 42 Ill. Reg. 7980; amended at 42 Ill. Reg. 17852, effective September 24, 2018; amended at 42 Ill. Reg. 19190, effective October 12, 2018; amended at 43 Ill. Reg. 727, effective December 18, 2018.

SUBPART I: BASE INCOME OF PARTNERSHIPSSection 100.2850 Subtraction Modification for Personal Service Income or Reasonable Allowance for Compensation to Partners (IITA Section 203(d)(2)(H))

- a) In General. A partnership is allowed to subtract from taxable income *any income of the partnership that constitutes personal service income as defined in 26 USC 1348(b)(1) (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater.* (IITA Section 203(d)(2)(H)) Therefore, pursuant to this Section, a partnership is allowed a subtraction modification in an amount equal to the greater of the amount computed under subsection (b) or the amount computed under subsection (c).
- 1) Purpose. Under the IRC and federal income tax law, a partner is not an employee of the partnership. Consequently, a partnership generally may not deduct in computing the taxable income of the partnership amounts paid to a partner for services rendered to the partnership. (Estate of Tilton, 8 BTA 914 (1927)) Instead, these amounts are considered distributive shares of partnership income (Revenue Ruling 55-30, 1955-1 C.B. 430). In contrast, a shareholder of a corporation may also be employed by the corporation. Amounts paid by the corporation to the shareholder that

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

constitute compensation for services rendered as an employee may be deducted by the corporation in computing its taxable income under 26 USC 162(a)(1). The purpose of the subtraction modification under IITA Section 203(d)(2)(H) and this Section is to allow partnerships, for purposes of computing their liability for the tax imposed under IITA Section 201(c) and (d) (replacement tax), a deduction for compensation paid to partners for services rendered to the partnership similar to the deduction allowed to a corporation for compensation paid a shareholder-employee for services rendered to the corporation.

2) Amounts that Qualify for Subtraction.

- A) The amounts computed under subsections (b) and (c) are comprised of the distributive shares of the partners in the income of the partnership. Under 26 USC 707(c) to the extent determined without regard to the income of the partnership, payments to a partner for services or the use of capital are considered as made to a person who is not a partner, but only for the purposes of 26 USC 61(a) (relating to gross income) and, subject to 26 USC 263, for purposes of IRC section 162(a) (relating to trade or business expenses). 26 CFR 1.707-1(c) states that, for the other purposes of the IRC, a guaranteed payment is regarded as a distributive share of the ordinary income of the partnership. Accordingly, a guaranteed payment to a partner may be included in the computation of the amounts computed under subsections (b) and (c).
- B) Under 26 USC 707(a), if a partner engages in a transaction with the partnership other than in his or her capacity as a partner, the transaction is generally considered as occurring between the partnership and one who is not a partner. When a partnership pays or accrues an amount to a non-partner for services rendered, the partnership is allowed a deduction in the computation of its taxable income (see, e.g., 26 USC 162). Therefore, a payment to a partner subject to 26 USC 707(a) may not be included in the amounts computed under subsections (b) and (c) (see IITA Section 203(g) and subsection (a)(5) of this Section). A distribution by the partnership subject to 26 USC 731 is treated as a return of capital and/or gain from the sale or exchange of the partnership interest of

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

the distributee partner and, therefore, in no event may a distribution be included in the amounts computed under subsections (b) and (c). However, an allocation of partnership income to a partner may be considered compensation for services for purposes of this Section, whether or not accompanied by a corresponding distribution under 26 USC 731.

3) Double Deductions Prohibited. IITA Section 203(g) states that *nothing in that Section shall permit the same item to be deducted more than once.*

A) Under IITA Section 203(d)(2)(I), a subtraction modification is allowed to the partnership for income distributable to an entity subject to replacement tax or to organizations exempt from federal income tax by reason of IRC section 501(a). Therefore, neither a guaranteed payment nor a distributive share of net income or gain of a partner subject to replacement tax or exempt from federal income tax under IRC section 501(a) may be included in the subtraction modification allowed under this Section.

B) In addition, when a partnership pays or accrues an amount to a non-partner for services rendered, the partnership is allowed a deduction in the computation of its taxable income. Therefore, a payment to a partner subject to 26 USC 707(a) because the partner is not acting in his or her capacity as a partner, whether or not the payment is currently deducted by the partnership or capitalized, may not be subtracted under this Section. Similarly, when a person receives a partnership interest for the provision of services, the partnership's deduction is determined under 26 USC 83(h). Therefore, no amount may be deducted by the partnership under this Section for the transfer of a partnership interest in connection with the performance of services.

b) Personal Service Income. When the personal service income of the partnership, as defined in this subsection (b), is greater than a reasonable allowance for compensation paid or accrued for services rendered by partners, the subtraction modification under this Section shall be equal to the personal service income of the partnership. The personal service income of the partnership is equal to the aggregate of the distributive shares of the partners in the income of the partnership that would constitute personal service income in the hands of the

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

partners (less deductions allocable to that income as provided in subsection (b)(2)). See Rev. Rul. 74-231, 1974-1 C.B. 240.

1) Definitions

Personal Service Income. The term "personal service income", as defined in 26 USC 1348(b)(1) (as in effect December 31, 1981) means: "any income which is earned income within the meaning of 26 USC 401(c)(2)(C) or 26 USC 911(b) or which is an amount received as a pension or annuity which arises from an employer-employee relationship or from tax-deductible contributions to a retirement plan. For purposes of this subparagraph, 26 USC 911(b) shall be applied without regard to the phrase, 'not in excess of 30 percent of his share of net profits of such trade or business'. The term 'personal service income' does not include any amount to which 26 USC 72(m)(5), 402(a)(2), 402(e), 403(a)(2), 408(e)(2), 408(e)(3), 408(e)(4), 408(e)(5), 408(f) or 409(c) applies; or which is includible in gross income under 26 USC 409(b) because of the redemption of a bond which was not tendered before the close of the taxable year in which the registered owner attained age 70½." See also 26 CFR 1.1348-3. Under 26 USC 1348, only an individual (or trust or estate in the case of income in respect of a decedent) may receive personal service income. Therefore, only the distributive share of an individual partner (or trust or estate in the case of income in respect of a decedent) may be included in the personal service income of the partnership under this subsection (b).

2) Personal Service Income is Net of Allocable Expenses. For purposes of determining the subtraction modification under this subsection (b), the personal service income of the partnership shall be the aggregate of the distributive shares of the partners in the income of the partnership that would constitute personal service income in the hands of the partners less deductions allocable to that income. In Treasury Decision 7446, Maximum Tax on Earned Income (August 13, 1976), the IRS stated that, in order to achieve a logical result in applying the maximum tax provisions of Section 1348 and to prevent the conversion of passive income into earned income, a proportional allocation of expenses to earned income is required in the case of a business in which capital is a material income-producing factor. In addition, if passive income is derived from investments held by a trade or business, expenses of the trade or business must be allocated between such passive income and the income

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

available for payment as personal service income. Therefore, when a partnership incurs a loss from a trade or business, it does not have personal services income for purposes of the subtraction modification under this Section.

- c) Reasonable Compensation for Services. When a reasonable allowance for compensation paid or accrued for services actually rendered by partners is greater than the personal service income of the partnership, as defined in subsection (b), the subtraction modification under this Section is equal to that reasonable allowance. The reasonable compensation allowance of the partnership under this subsection is equal to the sum of the distributive shares of all partners who render services to or on behalf of the partnership of the income of the partnership to the extent that the distributive share would have been allowed as a deduction to the partnership under 26 USC 162 if it had been paid to the service partner for services performed in the capacity of an employee of the partnership rather than a partner. No part of the distributive share of a partner who performs no services to or on behalf of the partnership may be included in the reasonable compensation allowance of the partnership under this subsection.
- 1) Paid or Accrued. IITA Section 203(d)(2)(H) limits the subtraction modification for a reasonable allowance for compensation of partners to amounts "paid or accrued" to the partner for services rendered to the partnership. Therefore, the amount allowed under this subsection (c)(1) with respect to any partner may not exceed the increase, if any, in the capital account balance of the partner for the taxable year of the partnership in which the subtraction is claimed, determined under 26 CFR 1.704-1(b) without regard to contributions of money or property by the partner and without regard to distributions of money or property to the partner, but including a guaranteed payment made to the partner.
- 2) Reasonable Allowance. 26 USC 162(a)(1) limits the deduction for compensation for services to a reasonable allowance. (See 26 CFR 1.162-7(b)(3).) Therefore, the amount computed under this subsection (c)(2) with respect to any service partner may not exceed what is reasonable under all the circumstances. 26 CFR 1.162-7(b)(3) states, "it is, in general, just to assume that reasonable and true compensation is only such amount as would ordinarily be paid for like services by like enterprises under like circumstances." In addition, in Exacto Spring Corp. v. Commissioner, 196 F.3d 833 (7th Cir. 1999), the court held that "when...the investors in [the]

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

company are obtaining a far higher return than they had any reason to expect, the owner/employee's salary is presumptively reasonable." (Menard, Inc. v. C.I.R., 560 F.3d 620, 623 (7th Cir. 2009)). However, this presumption may be rebutted by other evidence showing the amount claimed as compensation exceeds a reasonable amount. (Menard, Inc., 560 F.3d at 623) Accordingly, when income of the partnership is allocated to partners in amounts that would result in the partners obtaining a far higher return on partnership capital than they had any reason to expect, a rebuttable presumption shall arise that any remaining amount of income allocated to partners for services actually provided to the partnership is a reasonable allowance, and therefore may be included in the amount computed under this subsection (c)(2). The taxpayer shall have the burden of proving that the presumption arises.

- d) Examples. The provisions of this Section may be illustrated by the following examples.

EXAMPLE 1: Partnership PB consists of individual partners P and B. The partnership is engaged in a manufacturing business in which capital is a material income-producing factor. The partnership agreement provides that B shall be entitled to a guaranteed payment of \$100,000 annually for his services in managing the operations of the partnership. Assume that under IRC section 1348, the amount of the income of PB reasonably attributable to B's services is \$30,000. (See Brewster v. C.I.R., 607 F.2d 1369 (D.C. Cir. 1979) and IRS Technical Advice Memorandum 7932010 (1979).) In addition, assume that \$100,000 is reasonable compensation, and would be deductible to the partnership under IRC section 162(a)(1) if B rendered his management services as an employee rather than in his capacity as a partner. The partners agree to share all income, gain, losses and deductions equally after taking into account B's guaranteed payment. P does not provide any services to the partnership. For the taxable year, Partnership PB's taxable income, after taking into account B's guaranteed payment, is an ordinary loss of \$40,000. Under these facts, Partnership PB is allowed a subtraction modification under this Section equal to the greater of the personal service income of the partnership computed under subsection (b) or a reasonable allowance for compensation for services rendered by partners to the partnership under subsection (c). In this case, the reasonable allowance of \$100,000 exceeds the personal service income of the partnership of \$0. Therefore, the subtraction modification allowed to PB under this Section is \$100,000. Therefore, PB's base income for replacement tax purposes is a loss of \$40,000 (i.e., taxable income

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

under IITA Section 203(e)(2)(H) of a loss of \$40,000, plus an addition modification of \$100,000 under IITA Section 203(d)(2)(C), less a subtraction modification under this Section of \$100,000).

EXAMPLE 2: Assume the same facts as in Example 1, except that the partnership agreement does not provide B with a guaranteed payment, and the partnership's taxable income remains an ordinary loss of \$40,000. Because PB incurs a loss in its trade or business, it has no personal services income. In addition, because the loss is shared by the partners, there is no increase in B's capital account balance for the taxable year. Therefore, no amount has been paid or accrued to the partners for services rendered to the partnership. This result is not changed even if the partnership makes distributions to the partners during the taxable year. Partnership PB is not allowed a subtraction modification under this Section. Therefore, PB's base income for replacement tax purposes is a loss of \$40,000 (i.e., taxable income under IITA Section 203(e)(2)(H)).

EXAMPLE 3: Assume the same facts as in Example 1, except that the partnership's taxable income consists of an ordinary loss of \$100,000, and a \$200,000 capital gain under IRC section 1231. Because Partnership PB incurs a loss in its trade or business and its only item of income is a section 1231 gain of \$200,000, it has no personal services income. (See 26 CFR 1.1348-3(a)(1), which states that the term "earned income" does not include gains treated as capital gains under any provision of chapter 1 of the Internal Revenue Code.) However, the partnership is allowed a subtraction modification for reasonable compensation paid to B for services rendered to the partnership. The amount of the subtraction modification is the \$100,000 guaranteed payment to B. Because P has not provided any services to the partnership, none of the income allocated to P is reasonable compensation for services.

EXAMPLE 4: Assume the same facts as in Example 3, except that the partnership agreement does not provide for guaranteed payments. However, B is entitled under the partnership agreement to the first \$100,000 of profits, if any, for his services managing the operations of the partnership. As a result, the partnership's taxable income consists solely of a section 1231 gain of \$200,000. Because PB does not have income from its trade or business, and its only item of income is a section 1231 gain of \$200,000, it has no personal services income. However, it is allowed a subtraction modification for reasonable compensation paid to B for services rendered to the partnership. Under the partnership agreement, \$100,000 of gain allocated to B is in exchange for B's services

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

managing the partnership. Provided that amount does not exceed a reasonable allowance for those services, PB is allowed a subtraction modification under this Section of the \$100,000 guaranteed payment to B. Since P has not provided any services to the partnership, none of the gain allocated to P is reasonable compensation for services. Therefore, PB's base income for replacement tax purposes is \$100,000 (i.e., taxable income under IITA Section 203(e)(2)(H) of \$200,000, less a subtraction modification under this Section of \$100,000).

EXAMPLE 5: Partnership ABC is an engineering firm. The partnership's only trade or business is the provision of engineering services to clients, and capital is not a material income-producing factor. Partners A and B are individuals who provide all of the services to clients of the partnership. Partner C is a corporation that provides management services to the partnership. Under the partnership agreement, partners A and B have a 45% share of any income or loss of the partnership, and partner C has a 10% share of any income or loss. For its taxable year the partnership has taxable income from its engineering business of \$100,000, plus \$4,000 of portfolio interest income (net of allocable expenses). Since capital is not a material income-producing factor in the engineering services business, the partnership's personal services income is equal to the sum of A's and B's distributive share of the \$100,000 of taxable income. Because C is not an individual, no part of C's distributive share constitutes personal services income. In addition, because IITA Section 203(g) prohibits double deductions, the partnership's subtraction modification under this Section may not include any part of partner C's distributive share of the partnership's income. Because C is a partner subject to replacement tax, C's distributive share of partnership income is allowed as a subtraction modification under IITA Section 203(d)(2)(I). The partnership is allowed a subtraction modification under this Section of \$90,000, which is equal to partner A's and partner B's share of the personal services income of the partnership. Because the entire distributive share of A and B constitutes personal service income, and the computation of a reasonable allowance may not exceed the amount "paid or accrued" to A and B for their services, the subtraction modification is equal to the personal service income of the partnership. Therefore, ABC's base income for replacement tax purposes is \$3,600 (i.e., taxable income under IITA Section 203(e)(2)(H) of \$104,000, less a subtraction modification under Section 203(d)(2)(I) of \$10,400, less a subtraction modification under this Section of \$90,000).

EXAMPLE 6: Partnership DEF consists of individual partners D, E and F. The partnership is engaged in a rental real estate business. DEF has entered into a

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

management contract with G corporation under which, in exchange for a fixed fee, G corporation agrees to manage the daily rental operations of the partnership. G corporation is not a partner of DEF. The shareholders of G corporation are individuals D, E and F, who actually perform the services required under the management contract between the partnership and G corporation. Individuals D, E and F do not perform any other services except those set forth in the management contract. Partnership DEF is not allowed a subtraction modification under this Section because individuals D, E and F have not rendered any services to the partnership in their capacity as partners. Rather, the services rendered by D, E and F were provided to G corporation in their capacity as employees of G corporation.

EXAMPLE 7: The facts are the same as in Example 6, except that G is a limited liability company (LLC), elects to be taxed as a partnership, and is a general partner of DEF. Individuals D, E and F are limited partners of DEF. The partnership agreement provides that G LLC shall manage the daily rental operations of the partnership. The members of G LLC are individuals D, E and F, who actually perform the services required of G LLC under the partnership agreement. Partnership DEF is not allowed a subtraction modification under this Section because DEF is allowed to subtract G LLC's distributive share of partnership income under IITA Section 203(d)(2)(I), and therefore a subtraction under this Section is disallowed under subsection (a)(3) of this Section, and because individuals D, E and F have not rendered any services to the partnership in their capacity as partners. Rather, the services rendered by D, E and F were provided to G LLC as members of G LLC. Because G LLC is taxed as a partnership, G LLC may be allowed a subtraction modification under this Section in computing its replacement tax liability for services provided to it by individuals D, E, and F.

EXAMPLE 8: The facts are the same as in Example 7, except that the members of G LLC are D and H LLC, which elects to be taxed as a partnership. The members of H LLC are E and F. D, E and F perform the services required of G LLC under the partnership agreement. Partnership DEF is not allowed a subtraction modification under this Section because DEF is allowed to subtract G LLC's distributive share of partnership income under IITA Section 203(d)(2)(I), and therefore subtraction under this Section is disallowed under subsection (a)(3) of this Section, and because individuals D, E and F have not rendered any services to Partnership DEF in their capacity as partners. Rather, the services rendered by D were provided to G LLC as a member of G LLC and by E and F indirectly to G LLC as members of H LLC. Because G LLC is taxed as a partnership, in

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

computing its replacement tax liability it may be allowed a subtraction modification for D's distributive share of G LLC's income to the extent allowed under this Section, and allowed a subtraction modification under IITA Section 203(d)(2)(I) for H LLC's distributive share of G LLC's income. H LLC may be allowed a subtraction modification for E and F's distributive share of H LLC's income to the extent allowed under this Section.

(Source: Added at 43 Ill. Reg. 727, effective December 18, 2018)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Lobbyist Registration and Reports
- 2) Code Citation: 2 Ill. Adm. Code 560
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
560.100	Amendment
560.205	Amendment
560.220	Amendment
560.235	New Section
- 4) Statutory Authority: Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170].
- 5) Effective Date of Rules: December 20, 2018
- 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 rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 15222; December 26, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes made between proposal and adoption. All changes recommended by JCAR were made. Clarifications were made based on comments received.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The Secretary of State is required to provide a sexual harassment training program to individuals required to register as a lobbyist and the training program must be completed within 30 days after registration or renewal under the Lobbyist Registration Act
- 16) Information and questions regarding these adopted rules shall be directed to:

Amy Williams
Assistant Legal Advisor
298 Howlett Building
Springfield IL 62756

217/785-3094
Awilliams3@ilsos.net

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER III: SECRETARY OF STATEPART 560
LOBBYIST REGISTRATION AND REPORTS

SUBPART A: DEFINITIONS

Section	
560.100	Definitions
560.105	Designated Officials

SUBPART B: LOBBYIST REGISTRATION

Section	
560.200	Persons Required to Register
560.205	Designation and Duties of Authorized Agent
560.210	Persons Not Required to Register
560.220	Registration Requirements
560.225	Ethics Training
560.230	Failure to Register (Repealed)
560.235	Prohibition on Sexual Harassment

SUBPART C: REPORTING REQUIREMENTS

Section	
560.300	Persons Required to File Semi-monthly Reports
560.301	Affirmations
560.305	Time, Place and Manner for Filing Semi-monthly Reports
560.310	Categorizing Expenditures
560.315	Allocating Expenditures
560.320	Large Gatherings and Giveaways
560.325	Reporting Expenditures by Participants in Grass Roots Lobbying Events
560.326	Registrant's Duties for Grass Roots Lobbying Events
560.330	Expenditures for Immediate Family Members of Officials
560.340	Travel and Lodging Accommodations for Officials
560.345	Members of Legislative or State Study Committees
560.350	Personal and Office Expenses

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

560.355	Registrant's Duties for Grass Roots Lobbying Events (Repealed)
560.360	Salaries, Fees and Compensation
560.365	Contributions Reported Under the Election Code
560.370	Returned Expenditures/Reimbursement by Official
560.371	Lobbyist Notifications to Officials
560.372	Official's Clarification Notice
560.375	Reports in the Absence of Reportable Expenditures
560.380	Amending Reports
560.385	Termination of Lobbying Activities
560.390	Failure to File Registration Statements and Semi-monthly Reports
560.395	Preservation of Records

SUBPART D: PUBLIC DISCLOSURE

Section

560.400	Requests for Reports
560.402	Location and Business Hours
560.405	Official Forms
560.410	List of Officials
560.420	Fees
560.430	Enforcement

560.APPENDIX A Lobbyist Registration Statements

560.ILLUSTRATION A	Form R1: Lobbyist Registration Statement – For Individual/Firm/Partnership/Committee/ Association/Corporation or any Other Organization Employing a Lobbyist on Their Own Behalf (Repealed)
560.ILLUSTRATION B	Form R2: Lobbyist Registration Statement – For Individual/Firm/Partnership/Committee/Association/Corporation or any Other Organization Who Performs Lobbying Services on Behalf of Another (Repealed)
560.ILLUSTRATION C	Attachment R1/R2: Lobbyist Registration Attachment – For Individual Lobbyist (Repealed)
560.ILLUSTRATION D	Form R3: Lobbyist Registration Attachment – For Addition or Deletion of Affiliated Lobbyists (Repealed)
560.ILLUSTRATION E	Form R4: Lobbyist Registration Attachment – For Addition or Deletion of Affiliated Clients (Repealed)
560.APPENDIX B	Lobbyist <u>Expenditure</u> Semi-monthly Reports
560.ILLUSTRATION A	Form S1: Lobbyist <u>Expenditure</u> Semi-monthly Report – Summary

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

560.ILLUSTRATION B	of Reportable Expenditures (Repealed) Schedule 1A/2A: Lobbyist Expenditure Report – Itemized Expenditures for Travel and Lodging or Meals, Beverages and Entertainment (Repealed)
560.ILLUSTRATION C	Schedule 1B/2B: Lobbyist Expenditure Report – Non-Itemized Expenditures for Travel and Lodging or Meals, Beverages and Entertainment (Repealed)
560.ILLUSTRATION D	Schedule 2C/ 3C : Lobbyist Expenditure Report – Expenditures for Large Gatherings (Repealed)
560.ILLUSTRATION E	Schedule 3A/4A: Lobbyist Expenditure Report – Itemized Expenditures for Gifts or Honoraria (Repealed)
560.ILLUSTRATION F	Schedule 3B/4B: Lobbyist Expenditure Report – Non-Itemized Expenditures for Gifts and Honoraria (Repealed)
560.ILLUSTRATION G	Schedule GR1: Lobbyist Expenditure Notification – Expenditures Notification in Connection with a Grass Roots Lobbying Event (Repealed)

AUTHORITY: Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170] and P.A. 100-554, effective November 16, 2017.

SOURCE: Adopted at 18 Ill. Reg. 22532, effective January 1, 1994; amended at 21 Ill. Reg. 405, effective January 1, 1997; emergency amendment at 22 Ill. Reg. 22419, effective December 8, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 5856, effective May 3, 1999; amended at 24 Ill. Reg. 6708, effective April 14, 2000; emergency amendment at 35 Ill. Reg. 2424, effective January 21, 2011, for a maximum of 150 days; emergency expired June 19, 2011; amended at 35 Ill. Reg. 12761, effective July 18, 2011; emergency amendment at 37 Ill. Reg. 20784, effective December 16, 2013, for a maximum of 150 days; emergency repeal of emergency amendment at 38 Ill. Reg. 5395, effective February 7, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 8401, effective April 3, 2014; emergency amendment at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days; emergency expired May 6, 2018; amended at 43 Ill. Reg. 751, effective December 20, 2018.

SUBPART A: DEFINITIONS

Section 560.100 Definitions

The following definitions shall apply to this Part:

"Act" means the Lobbyist Registration Act [25 ILCS 170].

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Administrative Action" means the execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual arrangement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any executive agency, department, board or commission of the State. (Section 2(i) of the Act) It shall not include any correspondence or direct lobbying communication to an official providing a response to an official's request.

"Allocation" means the proration of the expenditure made for lobbying an official when the expenditure is made for more than one official, but fewer than 25 officials.

"Authorized Agent" means the person designated by *an entity or lobbyist registered under the Act as the person responsible for the accurate submission and retention of reports required under the Act. (Section 2(l) of the Act) The authorized agent need not register unless he or she is a lobbyist, as defined in this Section.*

"Client" means *any person or entity that provides compensation to or employs a lobbyist to lobby State government as provided in the Act.*

"Client Registrant" means a client who is required to register under the Act.

"Compensation" means any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying, as defined in this Section. Monies paid to officials by the State as remuneration for performance or reimbursement of expenses in connection with their constitutional and statutory duties as officials shall not constitute compensation. (Section 2 of the Act)

"Complete Report" means a statement or report to be filed with the Secretary of State Index Department in apparent and substantial conformity with the requirements of this Part that shall contain the electronic acknowledgement of the authorized agent, the completion of all applicable sections of the statement or report, and the attachment of all appropriate schedules.

"Direct Lobbying Communication" means any activity concerning the direct contact of officials in person or by means of correspondence, telephone or other

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

electronic medium for the purpose of influencing executive, legislative or administrative action. Any correspondence or contact of a routine nature with an official's office, or by a citizen lawfully petitioning a public official pursuant to Section 9 of the Act, shall not be considered direct lobbying communication, unless the communication is made by a hired lobbyist or is in conjunction with a reportable expenditure.

"Due Diligence" means when a lobbyist or authorized agent for any registered entity shows that best efforts have been used to obtain, maintain and submit the information required by the Act. With regard to filing complete reports, the authorized agent will not be deemed to have exercised due diligence unless he or she has access to the expense records of the entity's lobbyists, and has made at least one written request to obtain information required by the Act from the lobbyist that informs the lobbyist that the reporting of that information to the authorized agent is required by law or regulation. This definition should not be construed as a requirement that the authorized agent review the lobbyist's expense records if the lobbyist certifies their accuracy to the authorized agent.

"Employer" means the individual, firm, partnership, committee, association, corporation or any other organization or group of persons by whom a lobbyist is employed, and not the name of the lobbyist's supervisor.

"Executive Action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a State entity of a rule, regulation, order, decision, determination, contractual arrangement, purchasing agreement or other quasi-legislative or quasi-judicial action or proceeding. (Section 2(g) of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

"Expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure, for the ultimate purpose of influencing executive, legislative or administrative action, other than compensation as defined in this Section. (Section 2(b) of the Act) For the purposes of this Part, "expenditure" refers to a reportable expenditure made on behalf of an official in one of the 6 categories described in Section 6 of the Act and Section 560.310 of this Part.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"File", "Filed" and "Filing" means the submission of a complete report, as defined in this Section, to the Secretary of State Index Department by the close of business on the prescribed filing date. Registration statements, semi-monthly reports, and any other required reports or correspondence shall be completed online, using the Secretary of State Index Department website (<http://www.cyberdriveillinois.com/departments/index/home.html>) unless otherwise instructed. If the filing deadline falls on a weekend or a holiday, the deadline will be extended to the next business day unless otherwise instructed. The Index Department shall notify any lobbying entity who has failed to submit a complete report and pay proper fees as required by Sections 560.220 and 560.390. An entity that fails to file a complete entity registration statement, semi-monthly report, or other required report or correspondence and/or pay proper fees shall not be considered a registered lobbying entity by the Secretary of State.

"Goodwill" means, for reporting purposes, any expenditure made on behalf of officials that has no direct relation to a specific executive, legislative or administrative action, regardless of whether the lobbyist making the expenditure is reimbursed by his or her employing registered entity or client. Goodwill should be reported as the subject matter when no specific action is discussed.

"Grass Roots Lobbying Communication" means:

correspondence by a representative (a lobbyist or a non-lobbyist) of a registered entity to the general public, or any segment thereof, encouraging correspondence to an official's office in support of, or opposition to, an executive, legislative or administrative action;

correspondence by a member of the general public, or any segment thereof, to an official's office in support of, or opposition to, an executive, legislative or administrative action when such correspondence is a result of a communication described above in this definition. A reportable expenditure made for or on behalf of an official by a member of the general public as a result of a grass roots lobbying communication shall constitute lobbying activity requiring that individual to register as a lobbyist unless that person reports the expenditure to the registered entity pursuant to Section 560.325.

"Grass Roots Lobbying Event" means:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

any organized activity sponsored by a registered entity that is intended to influence the actions of officials by inviting or transporting participants (e.g., members, employees, constituents or the general public) to a specific site on the grounds of, or in the proximity of, public offices or other meeting places where officials are expected to be accessible for grass roots lobbying; or

any event to which officials are invited that is sponsored by a non-lobbyist member or employee of a registered entity, e.g., an on-site inspection of, or reception at, the member's or employee's place of business, or a social gathering at any location. Reportable expenditures incurred as a result of the event shall be reported to the registered entity pursuant to Section 560.325.

"Honorarium" means a payment of money to a member of the General Assembly for an appearance or speech, excluding any actual and necessary travel expenses incurred by the member (and one relative) to the extent that those expenses are paid by any other person. [5 ILCS 420/2-110]

"Influencing" means any communication, action, or reportable expenditure or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action or to promote goodwill with officials, as defined in this Section. (Section 2(f) of the Act)

"Legislative Action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or passage or defeat of any bill, amendment, resolution, report, nomination, administrative rule, or other matter by either house of the General Assembly or a committee thereof, or by a legislator. Legislative action also means the action of the Governor in approving or vetoing any bill or portion thereof, and the action of the Governor or any agency in the development of a proposal for introduction in the legislature. (Section 2(h) of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

"Lobby" and "Lobbying" means any communication with an official of the executive or legislative branch of State government as defined in this Section for the ultimate purpose of influencing any executive, legislative or administrative action. (Section 2(e) of the Act) Lobbying shall not be construed to infringe in any way the right of a citizen to lawfully petition any public official by any means

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

of communication. The following are excluded from the definition of "lobbying":

Any grass roots lobbying communication as defined in this Section;

Any communication by a candidate or political committee, as defined in Article 9 of the Election Code [10 ILCS 5/9], in relation to the candidate's campaign, or other communications by a political party committee registered with the Illinois State Board of Elections or Federal Election Commission;

Any communication by a political committee registered with the Illinois State Board of Elections or Federal Election Commission in connection with a question of public policy referendum to be presented to the electors; and

Any professional or technical assistance or ministerial function (a function in which nothing is left to discretion) as a normal course of business (see Section 560.210(c), (d), and (n)).

"Lobbyist" means any natural person who undertakes to lobby State government as defined in this Section. (Section 2(j) of the Act)

"Lobbying Entity" means any entity that hires, retains, employs or compensates a natural person to lobby State government as provided in this Section. (Section 2(k) of the Act)

"Official" means:

The Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and State Comptroller and their Chiefs of Staff;

Cabinet members of any elected constitutional officer, including Directors, Assistant Directors and Chief Legal Counsel or General Counsel, and other position titles of comparable ranking that are deemed by their employing Constitutional Officer to be an official under this Part;

Members of the General Assembly; and

Members of any board, commission, authority, or task force of the State

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

authorized or created by State law or by executive order of the Governor that has authority to make binding recommendations or determinations. (Section 2(c) of the Act) (See Section 560.105 for additional information.)

"Official" shall not be construed to include those individuals possessing power of attorney on behalf of an official.

"Person" means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons. (Section 2(a) of the Act)

"Picture" means an original or photocopied photograph of a lobbyist to be affixed to the lobbyist's registration attachment.

"Professional Services and Technical Skills" shall be limited to advice and analysis directly applying any professional or technical discipline (see Section 560.210(c) and (d)). Being a professional or technical person does not in itself exempt a person from registering if that person undertakes a direct lobbying communication or makes a reportable expenditure.

"Sexual Harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

submission to or rejection of that conduct by an individual is used as the basis for employment decisions affecting such individual; or

such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

For the purposes of this definition, the phrase "working environment" is not limited to a physical location where an employee is assigned to perform his or her duties and does not require an employment relationship. [5 ILCS 430/5.65(b)]

"Vendor" means any person who sells or leases commodities, equipment, or real

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

estate to the State of Illinois.

(Source: Amended at 43 Ill. Reg. 751, effective December 20, 2018)

SUBPART B: LOBBYIST REGISTRATION

Section 560.205 Designation and Duties of Authorized Agent

- a) Every lobbying entity shall designate on its Registration Statement an authorized agent who shall be responsible for keeping copies of the expenditure and registration records provided to him or her by that entity's lobbyists.
- b) For each lobbyist registering independently pursuant to Section 560.220, the Index Department shall assume that the authorized agent is the lobbyist himself or herself unless the lobbyist has specifically designated another individual as his or her agent.
- c) The authorized agent shall be the Index Department's contact person for the registered entity. Notices from the Department will be mailed only to the authorized agent. The authorized agent shall notify the Department of any change of address.
- d) No registered entity shall have a vacancy in the position of authorized agent. The Department shall continue to send notices to the authorized agent designated until a registered entity notifies the Department in writing of the new authorized agent.
- e) The authorized agent shall submit the official semi-monthly reports on behalf of the registered entity, consolidating the expenditure information for all of the lobbyists for that entity.
- f) The Index Department shall not accept registration statements and semi-monthly reports that are signed by anyone other than the authorized agent unless accompanied by a written explanation.
- g) Each exclusive lobbyist of each lobbying entity shall be provided with a copy of the written sexual harassment policy of his or her employer by the authorized agent. The authorized agent shall also provide each exclusive lobbyist with an acknowledgement form that acknowledges the lobbyist has received a copy of the policy that the exclusive lobbyist shall sign and date within 2 business days. The

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

authorized agent shall secure from each exclusive lobbyist the signed and dated acknowledgement and maintain that document for a period of 2 years.

(Source: Amended at 43 Ill. Reg. 751, effective December 20, 2018)

Section 560.220 Registration Requirements

- a) *Every natural person and every entity required to register under the Act shall register before any service is performed which requires the natural person or entity to register, but in any event not later than 2 business days after being employed or retained. (Section 5 of the Act) Every lobbying entity shall designate a person as an authorized agent (see Sections 560.100 and 560.205) who shall be responsible for reporting under this Part.*
- b) The authorized agent shall file an Entity Registration Statement and an Exclusive Lobbyist Information Statement for all persons who lobby exclusively for the entity even if lobbying is a small percentage of that person's job duties. (See Section 560.405.)
- c) *Every natural person and every entity required to register under the Act shall annually renew his or her registration on or before January 31 of each year if continuing lobbyist activities from the previous year. By December 15 of each year, the Secretary of State Index Department will send to all current authorized agents reminder notices of the January 31 deadline. Nothing in this Section shall relieve a lobbyist or lobbying entity from the requirement to register before commencing lobbying activities in a particular year and within 2 business days after being employed or retained for lobbying services.*
- d) *The registrant has a continuing duty to report any substantial change or addition to the information contained in the registration. (Section 5 of the Act)*
- e) Registration statements shall be filed in accordance with the definition of "filing" (see Section 560.100).
- f) All registration statements shall include an annual, non-refundable, non-transferable registration fee, assessed as follows, in the form of a credit or debit card payment or electronic check payable to the Secretary of State:
 - 1) A lobbyist's registration shall include a single, annual, non-refundable,

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

non-transferrable registration fee of \$300. A self-employed independent contract lobbyist who does not lobby under a business entity name or an assumed business name and who has no employees engaged in lobbying activities may submit a single annual fee of \$300 and need not pay an entity fee.

- 2) A lobbying entity's registration shall include a single, annual, non-refundable, non-transferable registration fee of \$300 for the entity and a single, annual, non-refundable, non-transferable registration fee of \$300 for each person registering as a lobbyist on an Exclusive Lobbyist Information Statement.
- g) The Secretary of State Index Department will provide an acknowledgment to each authorized agent indicating the date of receipt for all statements filed (see Section 560.100).
- h) Persons solely engaged in grass roots lobbying as an employee of a lobbying entity or a participant in a grass roots lobbying event who make a reportable expenditure are required to register unless the expenditure is reported to the registered entity pursuant to Section 560.326.
- i) The registrant must file a confirmation that the registrant has a sexual harassment policy as required by Section 4.7, that such policy shall be made available to any individual within 2 business days upon written request (including electronic requests), that any person may contact the authorized agent of the registrant to report allegations of sexual harassment alleged against the registrant or exclusive lobbyist hired by the registrant, and that the registrant recognizes the Inspector General has jurisdiction to review any allegations of sexual harassment alleged against the registrant or lobbyists hired by the registrant (Section 5(d) of the Act). The confirmation required by this subsection (i) will substantially be presented during the electronic registration process as follows: Submission of registration confirms that this lobbying registrant is in compliance, and will maintain compliance, with the Lobbyist Registration Act and this Part through the period of registration in this calendar year. This confirms that:
 - 1) The registrant has a written policy on the prevention, prohibition and investigation of sexual harassment and retaliation that includes how to report allegations and the consequences for committing sexual harassment or retaliation.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) The registrant will provide all employees required to register with a copy of the policy and secure an acknowledgment of receipt.
 - 3) The policy shall be made available, within 2 business days, to any individual who makes a written request for the policy (including electronic requests).
 - 4) Any person may contact the authorized agent of the registrant to report allegations of sexual harassment.
 - 5) The registrant recognizes the Inspector General has jurisdiction to review any allegations of sexual harassment against the registrant or lobbyists hired by the registrant.
 - 6) The registrant acknowledges that violations with regard to sexual harassment are subject to the jurisdiction of the Executive Ethics Commission and are subject to the penalties of the State Officials and Employees Ethics Act [5 ILCS 430].
- j) Each natural person required to register as a lobbyist under the Act must complete, at least annually, a sexual harassment training program provided by the Secretary of State no later than 30 days after registration or renewal under the Act. This requirement does not apply to a lobbying entity or a client that hires a lobbyist that:
- 1) does not have employees of the lobbying entity or clients registered as lobbyists; or
 - 2) does not have an actual presence in Illinois. [25 ILCS 170/4.7]

(Source: Amended at 43 Ill. Reg. 751, effective December 20, 2018)

Section 560.235 Prohibition on Sexual Harassment

- a) All persons have the right to work in an environment free from sexual harassment. All persons subject to the Act shall refrain from sexual harassment of any person.
- b) Sexual Harrassment Defined

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) For purposes of the Act, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:
 - A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
 - C) that conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- 2) For the purposes of this definition, the phrase "working environment" is not limited to a physical location where an employee is assigned to perform his or her duties and does not require an employment relationship. [5 ILCS 430/5-65]
- c) No later than January 1, 2018, each natural person and any entity required to register under the Act shall have a written sexual harassment policy that shall include, at a minimum:
 - 1) a prohibition on sexual harassment;
 - 2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights and that reports made to any of the above persons will be confidential to the extent practicable;
 - 3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employee Ethics Act, the Whistleblower Act [740 ILCS 174], and the Illinois Human Rights Act [775 ILCS 5]; and

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 4) *the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report. [25 ILCS 170/4.7(c)]*

(Source: Added at 43 Ill. Reg. 751, effective December 20, 2018)

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) Section Number: 1540.190 Adopted Action: Amendment
- 4) Statutory Authority: 40 ILCS 5/14-135.03
- 5) Effective Date of Rule: December 19, 2018
- 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 rule, including any material incorporated by reference, is on file in the Agency's principal office is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 16646; September 14, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: A technical correction identified by JCAR has been included. The correction adds a comma after "earned".
- 12) Have all the changes agree upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Some State employees receive "compensatory time" instead of overtime time pay when they perform authorized work in excess of their work schedule. Compensatory time is intended to provide paid time off from work. Under the State's personnel rules, if an employee does not use compensatory time prior to the end of the fiscal year in which it has been earned, then he or she shall receive a lump sum payment in lieu of such compensatory time. Such payments are provided to the

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

member on the final payroll for the fiscal year in which it was earned. The System is seeking to clarify that such compensation is assigned to the pay period in which it was earned.

Clarifying in this manner is consistent with the 40 ILCS 5/14-103.10 and will prevent the ability to artificially increase the final average compensation calculation, which would artificially increase the retirement annuity calculation. If a member were able to control the timing of lump sum compensation received for unused compensatory time, then he or she would be able to push significant amounts of compensation into their final average compensation period, which would artificially increase the retirement benefit. The System believes this rule prevents the artificial enhancement of the retirement benefit. The System contends it is exercising its fiduciary duty by preventing such action with this rule.

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

Jeff Houch
Assistant to the Executive Secretary
State Employees' Retirement System
2101 South Veterans Parkway
Springfield IL 62794

jeff.houch@srs.illinois.gov
217/524-8105

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

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540

THE ADMINISTRATION AND OPERATION OF THE
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

Section

1540.5	Introduction (Repealed)
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.195	Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

- 1540.255 Pick-up Option for Optional Service Contributions
- 1540.260 Contributions and Service Credit During Nonwork Periods
- 1540.270 Written Appeals and Hearings
- 1540.280 Availability for Public Inspection (Recodified)
- 1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
- 1540.300 Organization of the State Employees' Retirement System (Recodified)
- 1540.310 Amendments
- 1540.320 Optional Forms of Benefits – Basis of Computation
- 1540.330 Board Elections
- 1540.340 Excess Benefit Arrangement
- 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)
- 1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
- 1540.370 Americans With Disabilities Act
- 1540.380 Correction of Mistakes in Benefit Payments
- 1540.385 Suspension of Benefits from Uncashed Warrants
- 1540.390 Freedom of Information Act

1540.APPENDIX A Grievance Form

1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014; emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency amendment modified in response to Joint Committee on Administrative Rules Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 768, effective December 19, 2018.

Section 1540.190 Lump Sum Salary Payments

- a) Employee retirement contributions are not to be assessed against certain lump sum salary payments as provided in the Act.
- b) Compensation received for unused compensatory time shall be applied to the pay period in which it was earned, rather than when it was received.

(Source: Amended at 43 Ill. Reg. 768, effective December 19, 2018)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Grant Program for Dependents of Correctional Officers
- 2) Code Citation: 23 Ill. Adm. Code 2731
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2731.20	Amendment
2731.30	Amendment
- 4) Statutory Authority: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].
- 5) Effective Date of Rules: January 1, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16191; August 24, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was revised to include expanded eligibility criteria as a result of PA 100-673, signed by the governor on August 3, 2018, with an immediate effective date.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782-5161
email: jackie.eckley@illinois.gov

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2731

GRANT PROGRAM FOR DEPENDENTS OF CORRECTIONAL OFFICERS

Section

2731.10	Summary and Purpose
2731.20	Applicant Eligibility
2731.30	Program Procedures
2731.40	Institutional Procedures

AUTHORITY: Implementing Section 60 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/60 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20780, effective January 1, 1986; transferred from Chapter IX, 23 Ill. Adm. Code 1731 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2731 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17853; amended at 14 Ill. Reg. 10534, effective July 1, 1990; amended at 17 Ill. Reg. 10559, effective July 1, 1993; amended at 18 Ill. Reg. 10299, effective July 1, 1994; amended at 20 Ill. Reg. 10183, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11100, effective July 18, 1997; amended at 30 Ill. Reg. 11632, effective July 1, 2006; amended at 35 Ill. Reg. 12374, effective July 15, 2011; amended at 36 Ill. Reg. 9414, effective July 1, 2012; amended at 37 Ill. Reg. 9510, effective July 1, 2013; amended at 38 Ill. Reg. 13390, effective July 1, 2014; emergency amendment at 42 Ill. Reg. 16348, effective August 7, 2018, for a maximum of 150 days; emergency amendment repealed at 42 Ill. Reg. 18517, effective September 27, 2018; emergency amendment at 42 Ill. Reg. 19098, effective September 27, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 773, effective January 1, 2019.

Section 2731.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) one of the following~~either~~:
 - A) the natural child, legally adopted child, or child in the legal custody of a correctional officer at the time the officer was killed in the line of duty ~~or at the time a permanently disabling injury~~

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

~~occurred in the line of duty~~; or

B) the natural child, legally adopted child, or child in the legal custody of a correctional officer at the time or after a permanently disabling injury occurred in the line of duty. Children need not be born, legally adopted, or in the legal custody of the employee before the disability occurred in order to receive this grant; or

C) the husband or wife of a correctional officer at the time the officer was killed in the line of duty or at the time a permanently disabling injury occurred in the line of duty; and

- 2) a United States citizen or an eligible noncitizen; and
 - 3) enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see 23 Ill. Adm. Code 2735); and
 - 4) making satisfactory academic progress toward a degree or certificate.
- b) An applicant need not be a resident of Illinois at the time of enrollment.
 - c) An applicant does not have to demonstrate financial need to receive this grant.
 - d) A spouse who remarries after a correctional officer is killed in the line of duty, or divorces a permanently disabled officer, is not eligible. Common law partners are not eligible.
 - e) A step-child who was not or is not in the legal custody of, or legally adopted by, a correctional officer ~~who at the time the officer~~ died or sustained a permanently disabling injury in the line of duty is not eligible.

(Source: Amended at 43 Ill. Reg. 773, effective January 1, 2019)

Section 2731.30 Program Procedures

- a) All first-time applicants shall complete an application which includes biographical information regarding the deceased or disabled correctional officer (e.g., name, where employed, position title, date of death or disability, etc.) and

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

- 1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the correctional officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.
 - 2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.
- b) Once eligibility [in relation to the qualifying death or disability](#) has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.
- c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for summer term only.
- d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.
- e) Grants are applicable toward tuition and mandatory fees.
- 1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.
 - 2) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the cost of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.
- f) Notice of the grant award shall be sent to each recipient. Applicants not receiving

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

awards will also be notified.

- g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.

- 1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	6 units	4 units
6 - 11.99 hours	3 units	2 units

- 2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 48 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.
- h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.
- i) Recipients receive payment through their institution of record.
- j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided the institution's tuition refund policy indicates the recipient had incurred such charges.
- k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change affecting his/her enrollment status, name or address.
- l) ISAC pays grant funds directly to the institution of record in the name of the recipient.
- m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

- n) Grant payment is subject to the limits of dollars appropriated for this program by the General Assembly.
- o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:
 - 1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;
 - 2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;
 - 3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and
 - 4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

(Source: Amended at 43 Ill. Reg. 773, effective January 1, 2019)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Grant Program for Dependents of Police or Fire Officers
- 2) Code Citation: 23 Ill. Adm. Code 2732
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2732.20	Amendment
2732.30	Amendment
- 4) Statutory Authority: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].
- 5) Effective Date of Rules: January 1, 2019
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of this adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 16193; August 24, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposed and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.
- 13) Will this rule replace any emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was revised to include expanded eligibility criteria as a result of Public Act 100-673, signed by the governor on August 3, 2018, with an immediate effective date.
- 16) Information and questions regarding these adopted rules shall be directed to:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
email: jackie.eckley@illinois.gov

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2732

GRANT PROGRAM FOR DEPENDENTS OF POLICE OR FIRE OFFICERS

Section

2732.10	Summary and Purpose
2732.20	Applicant Eligibility
2732.30	Program Procedures
2732.40	Institutional Procedures

AUTHORITY: Implementing Section 55 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/55 and 20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20873, effective January 1, 1986; amended at 11 Ill. Reg. 3239, effective January 29, 1987; transferred from Chapter IX, 23 Ill. Adm. Code 1732 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2732 (Illinois Student Assistance Commission) pursuant to P.A. 86-169, effective July 1, 1989, at 13 Ill. Reg. 17866; amended at 14 Ill. Reg. 10585, effective July 1, 1990; amended at 17 Ill. Reg. 10620, effective July 1, 1993; amended at 18 Ill. Reg. 10342, effective July 1, 1994; amended at 20 Ill. Reg. 10191, effective July 15, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11090, effective July 18, 1997; amended at 30 Ill. Reg. 11639, effective July 1, 2006; amended at 35 Ill. Reg. 12378, effective July 15, 2011; amended at 36 Ill. Reg. 9420, effective July 1, 2012; amended at 37 Ill. Reg. 9516, effective July 1, 2013; amended at 38 Ill. Reg. 13396, effective July 1, 2014; emergency amendment at 42 Ill. Reg. 16355, effective August 7, 2018, for a maximum of 150 days; emergency amendment repealed at 42 Ill. Reg. 18524, effective September 27, 2018; emergency amendment at 42 Ill. Reg. 19105, effective September 27, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 780, effective January 1, 2019.

Section 2732.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) one of the following~~either~~:
 - A) the natural child, legally adopted child, or child in the legal custody of an Illinois police or fire officer at the time the officer

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

was killed in the line of duty ~~or at the time a permanently disabling injury occurred in the line of duty~~; or

B) the natural child, legally adopted child, or child in the legal custody of an Illinois police or fire officer at the time or after a permanently disabling injury occurred in the line of duty. Children need not be born, legally adopted, or in the legal custody of the officer before the disability occurred in order to receive this grant;
or

C) the husband or wife of the Illinois police or fire officer at the time the officer was killed in the line of duty or at the time a permanently disabling injury occurred in the line of duty; and

- 2) a United States citizen or eligible noncitizen; and
 - 3) enrolled on at least a half-time basis at an institution that is approved for participation in the Monetary Award Program (MAP) (see Ill. Adm. Code 2735); and
 - 4) making satisfactory academic progress toward a degree or certificate.
- b) An applicant need not be a resident of Illinois at the time of enrollment.
 - c) An applicant does not have to demonstrate financial need to receive this grant.
 - d) A spouse who remarries after an Illinois police or fire officer is killed in the line of duty, or who divorces a permanently disabled Illinois police or fire officer, is not eligible. Common law partners are not eligible.
 - e) A step-child who was not or is not in the legal custody of, or legally adopted by, the Illinois police or fire officer ~~who at the time the officer~~ died or sustained a permanently disabling injury in the line of duty is not eligible.

(Source: Amended at 43 Ill. Reg. 780, effective January 1, 2019)

Section 2732.30 Program Procedures

- a) All first-time applicants shall complete an application which includes

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

biographical information regarding the deceased or disabled officer (e.g., name, where employed, position title, date of death or disability, etc.) and the application shall be accompanied by a certified death certificate or the certified statement of a licensed physician.

- 1) The physician's statement must certify that there is a mental or physical condition that is reasonably certain to continue throughout the lifetime of the officer, resulting in a 90% to 100% incapacity from performing substantial and material duties previously discharged.
 - 2) Documentation must be submitted to prove that the death or disability occurred in the line of duty.
- b) Once eligibility [in relation to the qualifying death or disability](#) has been established for one member of a family, it is established for all qualified applicants in the family. Thereafter, a simplified application will be required from each student on an annual basis. Also, students must indicate the institution to be attended.
- c) The deadline for applications will be October 1 for consideration for all terms, March 1 for consideration for second semester/second and third quarter and summer term, and June 15 for consideration for the summer term only.
- d) If an application is incomplete, notice will be sent to the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date it was completed and received in ISAC's Deerfield office.
- e) Grants are applicable toward tuition and mandatory fees.
- 1) A recipient attending a public institution in Illinois shall receive a grant that shall not exceed the cost of tuition and mandatory fees at that institution. This includes the difference between in-district and out-of-district tuition.
 - 2) A recipient attending a private institution in Illinois may receive a grant sufficient to pay the costs of tuition and mandatory fees, provided the award does not exceed the maximum grant payable to a student enrolled in the most expensive comparable program of study at a public institution.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- f) Notice of the grant award will be sent to each recipient. Applicants not receiving awards will also be notified.
- g) Benefits are limited to the full-time enrollment equivalent of eight semesters or twelve quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.

- 1) To determine the amount of eligibility a recipient has used, credit hours (and noncredit hours for which benefits are used) will be converted to eligibility units according to the following table:

Number of Hours	Semester Term	Quarter Term
12 or more hours	6 units	4 units
6 - 11.99 hours	3 units	2 units

- 2) Full program benefits may be extended for one additional term if the recipient has accumulated fewer than 48 eligibility units but does not have enough units remaining for the number of hours in which he or she is enrolled for the term.
- h) A student who receives a grant under this program and who is subsequently determined to be ineligible shall repay the institution the total amount of the funds received during the period in which he or she was ineligible.
- i) Recipients receive payment through their institution of record.
- j) If a recipient withdraws from enrollment after the expiration of the tuition refund/withdrawal adjustment period, the recipient shall receive a grant for costs incurred up to the term award provided that the institution's tuition refund policy indicates the recipient had incurred such charges.
- k) A recipient shall agree to notify ISAC, in writing, within 15 days of any change affecting his/her enrollment status, name or address.
- l) ISAC pays grant funds directly to the institution of record in the name of the recipient.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- m) ISAC will disburse grant funds in multiple installments, depending upon the number of terms financed by the grant; except that multiple disbursements will not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the grant is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.
- n) Grant payment is subject to the limits of dollars appropriated for this program by the General Assembly.
- o) In the event that funds are insufficient to make awards to all eligible applicants, ISAC will make award determinations on the basis of the dates that the completed applications were received and the following:
 - 1) first semester and first quarter awards will be paid, or prorated if funding is insufficient to pay all grants in full;
 - 2) if funds remain after first semester and first quarter awards are paid, then second semester/second and third quarter awards will be paid, or prorated if funds remaining are insufficient to pay all grants in full;
 - 3) if funds remain after second semester/second and third quarter awards are paid, summer term awards will be paid, or prorated if funding is insufficient to pay all grants in full; and
 - 4) timely claims for the difference between in-district and out-of-district tuition for recipients who do not qualify for charge backs will be considered for payment at the same time and in the same priority order as all other timely claims, in accordance with the provisions of this subsection (o).

(Source: Amended at 43 Ill. Reg. 780, effective January 1, 2019)

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Adult Protection and Advocacy Services
- 2) Code Citation: 89 Ill. Adm. Code 270
- 3) Section Numbers: Emergency Actions:
270.210 Amendment
270.402 Amendment
- 4) Statutory Authority: Implementing PA 100-641, effective January 1, 2019, and authorized by 320 ILCS 20/2 and 10.
- 5) Effective Date of Emergency Rules: January 1, 2019
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking is not set to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: December 26, 2018
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed to implement the expanded jurisdiction of the Adult Protective Services Program to investigate allegations when abuse or neglect by a person who has a continuing relationship with an eligible adult occurs outside a facility that is not defined as a domestic living situation as authorized under PA 100-641.
- 10) A Complete Description of the Subjects and Issues Involved: Updates the definition of the term "eligible adult" under the Adult Protective Services Program in Section 270.210 and Section 270.402.
- 11) Are there any other rulemakings to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
270.100	Amendment	42 Ill. Reg. 14309; August 3, 2018
270.105	Amendment	42 Ill. Reg. 14309; August 3, 2018
270.110	Repealed	42 Ill. Reg. 14309; August 3, 2018
270.115	Amendment	42 Ill. Reg. 14309; August 3, 2018

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

270.120	Repealed	42 Ill. Reg. 14309; August 3, 2018
270.130	Amendment	42 Ill. Reg. 14309; August 3, 2018
270.132	New Section	42 Ill. Reg. 14309; August 3, 2018
270.134	New Section	42 Ill. Reg. 14309; August 3, 2018
270.136	New Section	42 Ill. Reg. 14309; August 3, 2018
270.138	New Section	42 Ill. Reg. 14309; August 3, 2018
270.140	New Section	42 Ill. Reg. 14309; August 3, 2018
270.142	New Section	42 Ill. Reg. 14309; August 3, 2018
270.144	New Section	42 Ill. Reg. 14309; August 3, 2018
270.146	New Section	42 Ill. Reg. 14309; August 3, 2018
270.148	New Section	42 Ill. Reg. 14309; August 3, 2018
270.150	New Section	42 Ill. Reg. 14309; August 3, 2018
270.152	New Section	42 Ill. Reg. 14309; August 3, 2018
270.154	New Section	42 Ill. Reg. 14309; August 3, 2018
270.156	New Section	42 Ill. Reg. 14309; August 3, 2018
270.158	New Section	42 Ill. Reg. 14309; August 3, 2018
270.160	New Section	42 Ill. Reg. 14309; August 3, 2018
270.162	New Section	42 Ill. Reg. 14309; August 3, 2018
270.450	Amendment	42 Ill. Reg. 14309; August 3, 2018

12) Statement of Statewide Policy Objective: This emergency rulemaking does not create or enlarge any State mandate.

13) Information and questions regarding these emergency rules shall be directed to:

Tracy L.F. Trigillo
Deputy General Counsel
Illinois Department on Aging
One Natural Resources Way #100
Springfield IL 62702-1271

217/785-3346
fax: 217/785-4477
email: Tracy.Trigillo@Illinois.gov

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

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER II: DEPARTMENT ON AGING

PART 270
ADULT PROTECTION AND ADVOCACY SERVICES

SUBPART A: INTRODUCTION

Section
270.10 Summary and Purpose

SUBPART B: LONG TERM CARE OMBUDSMAN PROGRAM

Section
270.100 Long Term Care Ombudsman Program
270.105 Definitions
270.110 Responsibilities of the Department and the Office of the State Long Term Care Ombudsman
270.115 Display of Ombudsman Poster
270.120 Access to Resident Records
270.130 Conflict of Interest

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section
270.200 Purpose and Program Model
270.205 Adult Protective Services Program
270.210 Definitions
EMERGENCY
270.215 Organizational Standards and Responsibilities: Department on Aging
270.220 Organizational Standards and Responsibilities: Regional Administrative Agencies
270.221 Elder Abuse Fatality Review Teams (Repealed)
270.225 Organizational Standards and Responsibilities: Adult Protective Services Provider Agencies
270.226 Public Awareness and Education
270.230 Abuse Reporting
270.235 Immunity
270.240 Intake of Abuse, Neglect, Financial Exploitation, or Self-Neglect Reports

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

270.241	Reporting a Suspicious Death
270.245	Access to Alleged Victims and Relevant Records
270.250	Minimum Assessment and Classification Standards
270.255	Abuse, Neglect, Financial Exploitation, or Self-Neglect Case Work, Follow-Up, Referrals and Case Closure
270.260	Authority to Consent and Court Petitions
270.265	Early Intervention Services
270.270	Multi-disciplinary Teams
270.275	Confidentiality and Disclosure

SUBPART D: ADULT PROTECTIVE SERVICES VOLUNTEER CORPS

Section	
270.280	Definitions
270.285	Selection and Screening
270.290	Training
270.295	Volunteer Agreement and Volunteer Responsibilities
270.300	Activities and Supervision

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

Section	
270.400	Purpose of the Registry
270.402	Definitions
<u>EMERGENCY</u>	
270.404	Access to and Use of the Registry
270.406	Notice to Eligible Adult, Guardian or Agent
270.408	Notice to the Caregiver's Employer
270.410	Notice to Long Term Care Facilities and Ombudsman
270.412	Verified and Substantiated Finding and Notice to Caregiver
270.414	Initiation of an Appeal
270.416	Collateral Action
270.418	Confidentiality
270.420	Removal from Registry
270.422	Initial and Amended Pleadings
270.424	Service
270.426	Answer
270.428	Representation
270.430	Venue and Testimony by Telephonic or Other Electronic Means

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

270.432	Pre-hearing Conferences
270.434	Consolidation of Matters for Hearing
270.436	Continuances
270.438	Motions
270.440	Subpoenas
270.442	Discovery; Exchange of Information
270.444	Evidence
270.446	Witness Testimony
270.448	Expert Testimony
270.450	Burden of Proof
270.452	Administrative Law Judge Qualifications, Potential Disqualification, and Authority
270.454	Translators and Accommodations
270.456	Costs
270.458	Improper or Ex Parte Communications
270.460	Variances
270.462	Waiver
270.464	Failure to Appear
270.466	Grounds for Dismissal
270.468	Withdrawal of a Matter
270.470	Post-hearing Motions and Briefs
270.472	Administrative Hearing Record
270.474	Final Administrative Decision
270.476	Appeal of Department Decisions

SUBPART F: FATALITY REVIEW TEAMS

Section

270.500	Fatality Review Team Advisory Council
270.505	Regional Interagency Fatality Review Teams

AUTHORITY: Implementing and authorized by Sections 2 and 10 of the Adult Protective Services Act [320 ILCS 20/2 and 10].

SOURCE: Adopted at 21 Ill. Reg. 8887, effective July 1, 1997; amended at 25 Ill. Reg. 5259, effective April 1, 2001; amended at 26 Ill. Reg. 3964, effective March 15, 2002; expedited correction at 26 Ill. Reg. 8482, effective March 15, 2002; amended at 30 Ill. Reg. 8913, effective April 28, 2006; amended at 35 Ill. Reg. 8180, effective May 12, 2011; emergency amendment at 38 Ill. Reg. 2357, effective December 31, 2013, for a maximum of 150 days; emergency expired

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

May 29, 2014; amended at 39 Ill. Reg. 2156, effective January 23, 2015; amended at 42 Ill. Reg. 6659, effective April 2, 2018; amended at 42 Ill. Reg. 9226, effective July 1, 2018; emergency amendment at 43 Ill. Reg. 787, effective January 1, 2019, for a maximum of 150 days.

SUBPART C: ADULT PROTECTIVE SERVICES PROGRAM

Section 270.210 Definitions**EMERGENCY**

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Abuser" means a person who abuses, neglects, or financially exploits an eligible adult. [320 ILCS 20/2(a-5)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Adult Protective Services Hotline" means the 24-hour toll-free statewide telephone number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect of eligible adults.

"Adult protective services provider agency", "APS provider agency" or "designated agency" means any public or nonprofit agency, appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect.

"Adult with disabilities" means a person age 18 through 59 who resides in a domestic living situation and whose disability (see definition of "Disability") impairs his or her ability to seek or obtain protection from abuse, neglect or financial exploitation. [320 ILCS 20/2(a-6)]

"Allegation" means a charge or a claim of abuse, neglect, financial exploitation, or self-neglect.

"Alleged abuser" means a person who is reported as abusing, neglecting or financially exploiting an adult with disabilities or older person.

"Alleged victim" means an adult with disabilities or older person who is reported

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

as being abused, neglected or financially exploited, or who is neglecting himself or herself.

"APS" means adult protective services.

"Assessment" means the process of obtaining and documenting information about the case to determine if there is reason to believe abuse, neglect, financial exploitation, or self-neglect is occurring (or has occurred), and to ascertain the level of risk to the eligible adult of future abuse or harm.

"Capacity to consent" to an assessment or services means an individual reasonably appears to be either:

able to receive and evaluate information related to the assessment or services; or

able to communicate in any manner decisions related to the assessment of the reported incident or services. (See 320 ILCS 20/9(d-5).)

"Caregiver" means a person who either, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living. [320 ILCS 20/2(a-7)]

"Case work" is the development and implementation of a service plan for the client, which minimally includes: the identification of the needs, problems, limitations and capacities of the client; interventions to protect the health, welfare and safety of the client; assisting the client in obtaining needed services; and respecting the self-determination and independence of the client.

"Case worker" means an employee of an APS provider agency who is authorized to receive and assess reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, and to develop and implement a service plan for a client.

"Clear and convincing" is the standard of proof that must be met to reach a "verified" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a substantial certainty that the abuse, neglect, or financial exploitation is

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

occurring or has occurred.

"Client" is an eligible adult who is receiving services from the APS provider agency.

"Combined service area" means a designated service area, within a planning and service area where a single APS provider agency is responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agency shall respond to reports in accordance with the time frame outlined in Section 270.240.

"Confinement" means restraining or isolating an individual for other than bona fide medical reasons.

"Department" means the Department on Aging of the State of Illinois. [320 ILCS 20/2(b)]

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Disability" means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-129], or dementia as defined under the Alzheimer's Disease Assistance Act [410 ILCS 405/3(a-5)]. [320 ILCS 20/2(c-5)]

"Domestic living situation" means a residence where the eligible adult, at the time of the report, lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; and

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5]. [320 ILCS 20/2(d)]

"Early Intervention Services" are the services purchased by APS provider agencies to provide temporary short term or emergency services necessary to secure the health, welfare and/or safety of a client when other existing resources are unavailable.

"Eligible adult" means either an adult with disabilities age 18 through 59 or a person age 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself. "Eligible adult" also includes an adult who resides in any of the facilities that are excluded from the preceding definition of "domestic living situation" if either:

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

the alleged abuse or neglect occurs outside of the facility and not under facility supervision and the alleged abuser is a family member, caregiver, or another person who has a continuing relationship with the adult; or

the alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult, but who is not an employee of the facility where the adult resides.

[320 ILCS 20/2(e)]

"Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the APS provider agency has reason to believe the eligible adult is unable to consent to services that would alleviate that risk. [320 ILCS 20/2(f)]

"Emotional abuse" means verbal assaults, threats of maltreatment, harassment, or intimidation.

"Fatality Review Team" means a regional interagency review team established pursuant to Section 15 of the Act.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Follow-up" means the monitoring of substantiated cases of abuse, neglect, financial exploitation, or self-neglect for clients of the program.

"Guardian" means a person appointed by a court of competent jurisdiction, who is legally responsible for the care of a person who has been adjudicated by the court to be incompetent to manage his or her own affairs and/or property.

"Initial interview" means the preliminary contact made by an APS provider agency to determine the level of risk to an alleged victim, the need for early intervention services in order to assure safety and welfare or otherwise reduce risk to the alleged victim, and his or her decisional capacity to consent to an assessment and/or services.

"Intake" means the point at which trained staff of the Illinois Department on

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

Aging's Adult Protective Services Hotline and Senior HelpLine, a regional administrative agency, or APS provider agency receives a report of alleged or suspected abuse, neglect, financial exploitation or self-neglect and relays the report to a case worker for further assessment.

"Intervention" means an action initiated by the APS case worker or the APS provider agency to provide medical, social, economic, legal, housing, law enforcement, or other protective, emergency or supportive services to, or on behalf of, the eligible adult.

"Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

a professional or professional's delegate while engaged in:

social services;

law enforcement;

education;

the care of an eligible adult or eligible adults; or

any of the occupations required to be licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], the Clinical Social Work and Social Work Practice Act [225 ILCS 20], the Illinois Dental Practice Act [225 ILCS 25], the Dietitian Nutritionist Practice Act [225 ILCS 30], the Marriage and Family Therapy Licensing Act [225 ILCS 55], the Medical Practice Act of 1987 [225 ILCS 60], the Naprapathic Practice Act [225 ILCS 63], the Nurse Practice Act [225 ILCS 65], the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], the Illinois Occupational Therapy Practice Act [225 ILCS 75], the Illinois Optometric Practice Act of 1987 [225 ILCS 80], the Pharmacy Practice Act [225 ILCS 85], the Illinois Physical Therapy Act [225 ILCS 90], the Physician Assistant Practice Act of 1987 [225 ILCS 95], the Podiatric Medical Practice Act of 1987 [225 ILCS 100], the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act [225 ILCS

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

107], *the Respiratory Care Practice Act* [225 ILCS 106], *the Illinois Speech-Language Pathology and Audiology Practice Act* [225 ILCS 110], *the Veterinary Medicine and Surgery Practice Act of 2004* [225 ILCS 115], and *the Illinois Public Accounting Act* [225 ILCS 450];

an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;

an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

an administrator, employee, or person providing services in or through an unlicensed community-based facility;

any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and APS provider agencies, and the Office of State Long Term Care Ombudsman; provided that attorneys contracted or employed by the Area Agencies and their senior legal services providers and licensed to practice in Illinois are not mandated to report abuse, although they may voluntarily do so;

any employee of the State of Illinois not otherwise specified in this definition who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

a person who performs the duties of a coroner or medical examiner; or

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

a person who performs the duties of a paramedic or an emergency medical technician. [320 ILCS 20/2(f-5)]

"Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Passive neglect" means the failure by a caregiver to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

"Physical abuse" means the causing of physical pain or injury to an eligible adult.

"Preponderance of the evidence" is the standard of proof that, must be met to reach a "some indication" substantiation decision in the Adult Protective Services Program. This standard of proof is met when the credible evidence, weighed in its entirety, creates a reasonable certainty that more likely than not the abuse, neglect, financial exploitation, or self-neglect is occurring or has occurred.

"Procurement" means the method and documentation issued by the regional administrative agency or the Department to allow potential APS provider agencies to submit qualifications for purposes of designation as an APS provider agency.

"Provider agency" means any public or nonprofit agency in a planning and service area that is selected by the Department or appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. A provider agency may provide services in more than one planning and service area when appointed by the regional administrative agency with prior approval by the Department. [320 ILCS 20/2(h)]

"Regional administrative agency" means any public or nonprofit agency in a

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

planning and service area that provides regional oversight and performs functions as set forth in Section 3(b) of the Act. [320 ILCS 20/2(i)]

"Report taker" means the trained staff of the Department's Adult Protective Services Hotline and Senior HelpLine, regional administrative agencies or APS provider agencies that performs intake of alleged or suspected abuse, neglect, financial exploitation or self-neglect.

"Reporter" means the person who calls, visits or otherwise communicates to an authorized intake agency allegations or suspicions that an eligible adult has been or is being abused, neglected, or financially exploited, or is neglecting himself or herself.

"Senior HelpLine" means the Department's toll-free statewide number that can be called to report suspected cases of abuse, neglect, financial exploitation, or self-neglect to obtain additional information about services available to eligible adults.

"Self-determination" means the right of an eligible adult with decisional capacity to:

decide where and how he or she will live;

choose whether to accept program services or other community assistance;
and

make decisions different from those a reasonable adult would make, including "bad" decisions, that are not harmful to others.

"Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety. [320 ILCS 20/2(i-5)]

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"Services" means medical, social, economic, legal, housing, law enforcement, or other protective, early, emergency or supportive action provided to, or on behalf of, the eligible adult.

"Sexual abuse" means any sexual activity with an eligible adult who is unable to understand, unwilling to consent, threatened, or physically forced to engage in such sexual activity.

"Shared service area" means the designated area within a planning and service area where two or more APS provider agencies are responsible for providing a response, during non-business hours, to reports of alleged or suspected abuse, neglect, or self-neglect when an eligible adult is at risk of death or serious physical injury, pursuant to a cooperative agreement among the APS provider agencies involved. The APS provider agencies shall respond to reports in accordance with the time frame outlined in Section 270.240.

"State Triad" is a statewide, unincorporated, voluntary association of law enforcement, senior citizens and community groups, organized around the issue of senior safety, crime against the elderly, and financial exploitation of the elderly. The State Triad Council was created under the aegis of the National Association of Triads, Inc., 1450 Duke Street, Alexandria VA 22314.

"Substantiation" is the process by which an APS provider agency determines, after a review of all available information, that abuse, neglect, financial exploitation, or self-neglect of an eligible adult has occurred.

"Substantiated case" means a reported case of alleged or suspected abuse, neglect, financial exploitation or self-neglect in which an APS provider agency, after assessment, determines that there is reason to believe abuse, neglect, financial exploitation, or self-neglect has occurred. [320 ILCS 20/2(j)]

"Suspicious death" means an instance in which an APS provider agency reasonably believes that the death of an individual may be the result of abuse or neglect.

"Verified" means a determination that there is "clear and convincing evidence" that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation. [320 ILCS 20/2(k)]

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"Victim" means an eligible adult who is the subject of a substantiated report of abuse, neglect, financial exploitation, or self-neglect.

"Willful deprivation" is the deliberate denial to an eligible adult of required medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of physical, mental, or emotional harm. Willful deprivation shall not include the discontinuation of medical care or treatment when the eligible adult has expressed a desire to forego such medical care or treatment.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 787, effective January 1, 2019, for a maximum of 150 days)

SUBPART E: ADULT PROTECTIVE SERVICE REGISTRY

Section 270.402 Definitions**EMERGENCY**

For the purposes of this Subpart E, the following definitions are applicable:

"Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources. [320 ILCS 20/2(a)]

"Act" means the Adult Protective Services Act [320 ILCS 20].

"Administrative hearing" means a formal review of an action made by the Department. Specifically, it means any hearing authorized to be held under this Subpart by the Department or other entity authorized by the Director to hold these hearings.

"Administrative law judge" or "ALJ" means an attorney, licensed to practice law in the State of Illinois, who is authorized by the Director to conduct the administrative hearing and related processes under this Subpart.

"Allegation" means a charge or a claim of abuse, neglect or financial exploitation.

"Appeal" means a request to contest placement of a caregiver's identity on the Registry.

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"APS" means Adult Protective Services.

"APS provider agency" *means any public or nonprofit agency in a planning and service area that is selected by the Department, or appointed by the regional administrative agency with prior approval by the Department, to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.* [320 ILCS 20/2(h)]

"Authorized representative" means any person, including an attorney, authorized in writing by a party to act on behalf of the party in the administrative hearing process.

"Business day" means a day, Monday through Friday, when State agency offices are open. The following are not business days: Saturdays, Sundays, State holidays, and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public will be closed for business.

"Caregiver" *means a person who, as a result of a family relationship, voluntarily, or in exchange for compensation, has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living.* [320 ILCS 20/2(a-7)]

"Continuance" means a decision to proceed with a hearing at a later date than scheduled.

"Department" means the Illinois Department on Aging.

"Direct care" *includes, but is not limited to, direct access to an individual, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions.* [320 ILCS 20/7.5(b)]

"Direct care agency" means a State agency listed in Section 270.404(a) and any entity or provider agency of direct care.

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"Director" means the Director of the Department. [320 ILCS 20/2(c)]

"Domestic living situation" means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:

A licensed facility as defined in Section 1-113 of the Nursing Home Care Act [210 ILCS 45/1-113];

A facility licensed under the ID/DD Community Care Act [210 ILCS 47];

A facility licensed under the MC/DD Act [210 ILCS 46];

A facility licensed under the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49];

A "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40];

A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

A "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a "community residential alternative" as licensed under that Act [210 ILCS 135];

An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act [210 ILCS 9]; or

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5].

"Eligible adult" means either an adult with disabilities aged 18 through 59 or a person aged 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual. "Eligible adult" also includes an adult who resides in any of the facilities that are excluded from the preceding definition of "domestic living situation" if either:

the alleged abuse or neglect occurs outside of the facility and not under facility supervision and the alleged abuser is a family member, caregiver, or another person who has a continuing relationship with the adult; or

the alleged financial exploitation is perpetrated by a family member, caregiver, or another person who has a continuing relationship with the adult, but who is not an employee of the facility where the adult resides.
[320 ILCS 20/2(e)]

"Filed" means conveyed to the Department/other entity authorized to conduct hearings under this Subpart. A valid document or request will be considered filed on the business day it is received or, if mailed, on the date it is postmarked. Contact in person, by phone, fax, e-mail, via an electronic account, or other acceptable electronic means will be considered filed on a business day if it is received prior 5:00 p.m. on that date. If receipt is after 5:00 p.m., the action will be deemed filed on the next business day.

"Final administrative decision" means the final determination by the Director regarding whether or not placement of a caregiver's identity on the Registry is in the public interest.

"Financial exploitation" means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult. [320 ILCS 20/2(f-1)]

"Health care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health, the Department of Healthcare and Family Services, or the Department of Human Services.

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"Long term care facility" means any residential facility licensed, certified, or regulated by the Department of Public Health.

"Neglect" means another individual's failure to provide an eligible adult with, or willful withholding from an eligible adult, the necessities of life, including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults. Nothing in the Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. [320 ILCS 20/2(g)]

"Other entity" means an Illinois State agency or its qualified designee with the administrative capacity to handle all hearing functions as set forth in this Subpart.

"Participant" means an individual who uses the services of an in-home care or community-based program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health. [320 ILCS 20/7.5(b)]

"Party" means an individual or entity, including the Department, that has standing to participate and is participating in a proceeding under this Subpart. For purposes of filing and service, "party" also means an appropriately designated agent for receipt of service.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Registry" means the Adult Protective Service Registry.

"Relevant Contact Information" means the current contact information, including, but not limited to, address, phone number and email address that allows the Department/other entity authorized to conduct hearings under this Subpart to contact the party as necessary during the course of a proceeding under this Subpart.

"Verified and substantiated finding", as used in this Subpart, means a determination by "clear and convincing" evidence by a provider agency, after assessment, that injury or harm has occurred as the result of abuse, neglect or financial exploitation in a reported case.

DEPARTMENT ON AGING

NOTICE OF EMERGENCY AMENDMENTS

"Victim" means an eligible adult who is the subject of a verified and substantiated finding of abuse, neglect or financial exploitation.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 787, effective January 1, 2019, for a maximum of 150 days)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals and Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
2720.215	Amendment
2720.220	Amendment
2720.240	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].
- 5) Effective Date of Rules: January 1, 2019
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which it is to expire: These amendments have no earlier expiration date specified.
- 7) Date Filed with the Index Department: December 26, 2018
- 8) A copy of these emergency rules, including any material incorporated by reference, are on file in the Agency's principal office and are available for public inspection.
- 9) Reason for Emergency: The General Assembly (PA 100-880) required that email addresses of administrative law judges be placed on hearing notices beginning on January 1, 2019.
- 10) A Complete Description of the Subjects and Issues Involved: Explains the procedure for submitting certain documents to a referee by email. Explains which documents may not be submitted by email.
- 11) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
2720.35	New Section	42 Ill. Reg. 16965; September 28, 2018
2720.100	Amendment	42 Ill. Reg. 16965; September 28, 2018

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

2720.130	Amendment	42 Ill. Reg. 16965; September 28, 2018
2720.1	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.5	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.7	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.10	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.11	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.20	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.25	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.30	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.101	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.105	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.106	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.107	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.108	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.112	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.115	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.120	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.132	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.135	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.140	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.145	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.150	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.155	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.160	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.200	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.205	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.227	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.245	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.250	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.255	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.270	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.277	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.300	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.315	Amendment	42 Ill. Reg. 23324; December 21, 2018
2720.335	Amendment	42 Ill. Reg. 23324; December 21, 2018

- 12) Statement of Statewide Policy Objective: These emergency rules neither create nor expand a State mandate for units of local government.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

- 13) Information and questions regarding these emergency rules shall be directed to:

Thomas D. Chan, Acting General Counsel
Illinois Department of Employment Security
33 South State Street – Room 933
Chicago IL 60603

312/793-2338
fax: 312/793-5645
Thomas.D.Chan@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONSPART 2720
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

SUBPART A: GENERAL PROVISIONS

Section

2720.1	Definitions
2720.3	"Week" In Relation To "Benefit Year"
2720.5	Service Of Notices, Decisions, Orders
2720.7	Application For Electronic Data Transmission
2720.10	Computation Of Time
2720.11	Methods Of Payment
2720.15	Disqualification Of Adjudicator, Referee, Or Board Of Review
2720.20	Attorney Representation Of Claimants
2720.25	Form of Papers Filed
2720.30	Correction Of Technical Errors

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section

2720.100	Filing a Claim
2720.101	Filing, Registering And Reporting By Mail Under Special Circumstances
2720.105	Time For Filing An Initial Claim For Benefits
2720.106	Dating Of Claims For Weeks Of Partial Unemployment
2720.107	Employing Unit Reports for Partial Unemployment
2720.108	Alternative "Base Period"
2720.110	Required Second Visit To Local Office (Repealed)
2720.112	Telephone Certification
2720.115	Continuing Eligibility Requirements
2720.120	Time For Filing Claim Certification For Continued Benefits
2720.125	Work Search Requirements For Regular Unemployment Insurance Benefits (Repealed)
2720.126	Availability For Part Time Work Only (Repealed)
2720.127	Director's Approval Of Training (Repealed)
2720.128	Active Search For Work: Attendance At Training Courses (Repealed)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

- 2720.129 Regular Attendance In Approved Training (Repealed)
- 2720.130 Employing Unit Protest Of Benefit Payment
- 2720.132 Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work
- 2720.135 Adjudicator Investigation
- 2720.140 Adjudicator Determination
- 2720.145 Payment Of Unemployment Insurance Benefits For Initial Claims
- 2720.150 Applying For Unemployment Insurance Benefits Under Extension Programs
- 2720.155 Non-Resident Application For Benefits
- 2720.160 Reconsidered Findings Or Determination

SUBPART C: APPEALS TO REFEREE

Section

- 2720.200 Filing of Appeal
- 2720.201 Application For Electronic Data Transmission Of Notice Of Hearing
- 2720.205 Notice Of Hearing
- 2720.207 Untimely Appeals
- 2720.210 Preparation for the Hearing
- 2720.215 Format ~~of~~ Hearings

EMERGENCY

- 2720.220 Ex Parte (One Party Only) Communications

EMERGENCY

- 2720.225 Subpoenas
- 2720.227 Depositions
- 2720.230 Consolidation Or Severance Of Proceedings
- 2720.235 Withdrawal Of Appeal
- 2720.240 Continuances

EMERGENCY

- 2720.245 Conduct Of Hearing
- 2720.250 Rules Of Evidence
- 2720.255 Failure Of Party To Appear At The Scheduled Hearing
- 2720.265 The Record
- 2720.270 Referee's Decision
- 2720.275 Labor Dispute Appeals
- 2720.277 Prehearing Conference In Labor Dispute Appeal

SUBPART D: APPEALS TO THE BOARD OF REVIEW

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

Section

2720.300	Filing of Appeal
2720.305	Notice Of Appeal
2720.310	Request for Oral Argument
2720.315	Submission of Written Argument or Request to Submit Additional Evidence
2720.320	Access To Record
2720.325	Withdrawal Of Appeal
2720.330	Consolidation Or Severance Of Appeals
2720.335	Decision Of The Board Of Review
2720.340	Extensions Of Time In Which To Issue A Board Of Review Decision
2720.345	Issuance Of Notice Of Right To Sue

AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act [820 ILCS 405/239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304].

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986; amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989; amended at 14 Ill. Reg. 15334, effective September 10, 1990; amended at 14 Ill. Reg. 18489, effective November 5, 1990; amended at 16 Ill. Reg. 2556, effective January 30, 1992; emergency amendment at 16 Ill. Reg. 7506, effective April 22, 1992, for a maximum of 150 days; emergency expired September 19, 1992; amended at 17 Ill. Reg. 17937, effective October 4, 1993; amended at 18 Ill. Reg. 16340, effective October 24, 1994; amended at 21 Ill. Reg. 9441, effective July 7, 1997; amended at 21 Ill. Reg. 12129, effective August 20, 1997; emergency amendment at 27 Ill. Reg. 4217, effective February 15, 2003, for a maximum of 150 days; emergency expired July 15, 2003; amended at 29 Ill. Reg. 1909, effective January 24, 2005; amended at 32 Ill. Reg. 13177, effective July 24, 2008; amended at 33 Ill. Reg. 9623, effective August 1, 2009; amended at 35 Ill. Reg. 6114, effective March 25, 2011; emergency amendment at 43 Ill. Reg. 808, effective January 1, 2019, for a maximum of 150 days.

SUBPART C: APPEALS TO REFEREE

Section 2720.215 Format ~~of~~ Hearings**EMERGENCY**

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

- a) Except as otherwise provided in subsection (b), hearings shall be conducted by telephone.
- b) A witness or party may appear in-person, upon the Referee's motion or upon the request of the witness or party for good cause shown where the request is received by the Referee prior to the date of the hearing. Where a referee schedules an in-person appearance on his own motion, the witness or party may appear by telephone, upon the witness' or party's request, where the request is received by the Referee prior to the date of the hearing, unless the witness is required to appear in person pursuant to this subsection. A witness or party shall be required to appear in-person if the Referee finds that an in-person appearance is necessary for the furnishing of interpretive services to a party who is hearing or speech impaired, or due to the volume or complexity of the evidence. If the Referee denies or requires the in-person appearance of a witness or party, the reasons for doing so shall be stated on the record.
- c) A party appearing by telephone shall submit to the Referee and any opponent any documents that it intends to introduce at the hearing in time to ensure receipt of the documents before the date of the scheduled hearing. Such documents may be submitted to the Referee by mail or fax at the address or fax number listed on the Notice of Hearing. Documents may not be submitted to a Referee by e-mail transmission. Documents submitted to a Referee by e-mail transmission will not be considered. If a party is appearing by telephone in a matter that has been remanded by either the Board of Review or the Circuit Court and the opposing party was represented by an attorney before the body which ordered the matter remanded, copies of such documents must be served on the attorney for the opposing party. If the Referee finds that any document introduced or referenced in the course of the hearing was not received, the Referee shall continue the hearing until such document is received or proceed with the hearing with or without the admission of such document. If the Referee proceeds with the scheduled hearing, the reasons for admitting or not admitting such document shall be stated on the record.
- d) This Section shall not apply to appeals of decisions relating to the amount of wages found in a claimant's base period; those cases will be governed by the provisions of Section 2725.200.

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 808, effective January 1,

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

2019, for a maximum of 150 days)

Section 2720.220 Ex Parte (One Party Only) Communications
EMERGENCY

*In any contested matter involving more than one party, the Referee shall not communicate, directly or indirectly, in connection with any ~~issue of fact~~*substantive issue*, with any interested person or party except on notice and opportunity for all parties to participate. [\[ILCS 100/10-60\]\(Ill. Rev. Stat. 1983, ch. 127, par. 1015\)](#). If the Referee receives any such ex parte (one party only) communication, including any documents, he shall inform the other parties of the substance of any such oral communication and provide copies of any such written communication or documents as soon as practicable after the communication. The other party shall be given an opportunity to respond either to any ex parte (one party only) communication in writing or on the record. [The e-mail address listed on a Notice of Hearing shall be used only to request to appear at a hearing in-person in accordance with Section 2720.215\(b\), provide contact information in advance of the hearing, request a continuance in accordance with Section 2720.240 or request a reopening in accordance with Section 2720.255. If their e-mail address is available, the other party opponent, if any, should be copied on any e-mails sent to the e-mail address listed on the Notice of Hearing. The Department's e-mail system is not secure and so social security numbers must not be included in e-mails to the e-mail address listed on the Hearing Notice \(the Claimant ID or docket number should be used instead\).](#)*

(Source: Amended by emergency rulemaking at 43 Ill. Reg. 808, effective January 1, 2019, for a maximum of 150 days)

Section 2720.240 Continuances
EMERGENCY

- a) The Referee to whom the appeal was assigned, or a hearings supervisor if the Referee is not available, shall grant a continuance requested by a party only for "exceptional reasons". The request must be made in person, by telephone, or in writing [by mail, fax or e-mail](#), and such request must be received prior to the conclusion of the hearing. [A request for continuance received after the conclusion of the hearing will be treated as a request for reopening in accordance with Section 2720.255.](#) Such "exceptional reasons" are limited to:
 - 1) Compassionate Grounds:
 - A) Medical reasons that prevent the individual from appearing if the

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

Referee is provided with proper documentation or proof of such reasons, including but not limited to a previously scheduled medical appointment; or

- B) Medical emergency or death in the family;
- 2) Unforeseen circumstances such as accident, flood, fire, civil disorder, public utility emergency, military necessity or other insuperable interference;
 - 3) A demand by a party to obtain legal representation or to inspect the case file, provided that it is shown at the time of the request that due diligence was exerted to obtain such representation or to inspect the file;
 - 4) The claimant is employed, is scheduled for an employment interview or is participating in a training program approved for him by the Director under the provisions of Section 500C5 of the Act at the time of the hearing and cannot reasonably appear at the hearing either in person or by telephone;
 - 5) When a party's attorney has a conflict in his schedule because he has an appointment with a client, a court appearance or comparable matter scheduled for the same time as the hearing before the Referee and the attorney cannot reasonably appear at the hearing before the Referee and cannot reasonably find a substitute counsel;

EXAMPLEExample: A continuance is requested because a party's attorney has a conflict in his schedule because he has a court appearance scheduled for the same time as the hearing before the Referee. The court appearance is for a routine matter, such as an agreed motion or a status call, which could be handled by another member of the attorney's firm. Such a conflict will not constitute good cause for a continuance. It will be incumbent on the attorney to reschedule his court appearance or obtain substitute counsel to appear in his stead before the Referee.

- 6) The employer's representative or witness is unable to appear either in person or by telephone due to a plant shutdown for vacation, inventory or holiday which is provided for by a collective bargaining agreement or the employer's custom and the Referee is provided with documentation of such contract agreement or custom;

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF EMERGENCY AMENDMENTS

- 7) A party is unable to attend the hearing either in person or by telephone due to a conflicting legal or regulatory requirement, including but not limited to jury duty; or
 - 8) When, at the same time as the hearing before the Referee, a party's representative is scheduled to participate in another hearing before a Referee or Director's representative and no other reasonable accommodation can be made, on the condition that the representative notifies the [DepartmentAgency](#) of the conflict no later than five working days after issuance of the hearing notice that should have made the conflict patently evident.
- b) In the event that a continuance is granted, the hearing will be set for the earliest available time and date, but, absent exceptional reasons, no more than seven days after the scheduled hearing. The [DepartmentAgency](#) will inform the parties of the date, time and place of the continued hearing either orally or in writing.

(Source: Amended by emergency rulemaking at 4 Ill. Reg. 808, effective January 1, 2019, for a maximum of 150 days)

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MEET THE OBJECTION AND RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Emissions Reduction Market System
- 2) Code Citation: 35 Ill. Adm. Code 205
- 3) Section Number: 205.115 Proposed Action:
New Section
- 4) Date Notice of Proposed Rules published in the *Illinois Register*: 42 Ill. Reg. 6572; April 13, 2018
- 5) Date JCAR Statements of Objection and Recommendation published in the *Illinois Register*: 42 Ill. Reg. 21472, 21475; November 30, 2018
- 6) Summary of Action Taken by the Agency: The Illinois Pollution Control Board (Board) respectfully declined to withdraw or modify its rule in response to JCAR's Statement of Objection. The Board also respectfully declined to follow JCAR's Statement of Recommendation. Below, the Board summarizes its reasoning, first for the Board's action on JCAR's Objection and then for the Board's action on JCAR's Recommendation.

In this rulemaking (Board docket R18-22), the Board adopted an April 30, 2018 "sunset" of the Emissions Reduction Market System (ERMS). In its Statement of Objection, JCAR states that it objected to this proposal "because it sets a retroactive sunset date for the system that predates any possible adoption date for this rulemaking." JCAR's Statement of Objection further states that JCAR objected to the Illinois Environmental Protection Agency's "implementation of the policy stated in this rulemaking prior to adoption of the rulemaking by [the Board]."

The Board found that the "sunset" would not impose retroactive obligations on ERMS sources. The rulemaking record in R18-22 establishes that ERMS no longer provides emissions reductions beyond those provided by more recent federal and State "command and control" regulations. A later "sunset" date would require sources to comply with ERMS paperwork requirements, despite ERMS providing no additional emissions reductions, and to do so contrary to their reasonable expectations.

In its proposal to the Board on February 22, 2018, the Illinois Environmental Protection Agency (IEPA) noted that, because "[o]zone typically forms in the hotter, sunnier days of the year, [] ERMS addresses the time period of May 1 through September 30, known as the 'seasonal allotment period' or 'season.'" IEPA's witness, who has been involved with

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MEET THE OBJECTION AND RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

ERMS since its inception, testified that "[e]xtremely little activity takes place in ERMS during the seasonal allotment period. Activity increases during the reconciliation period, which runs October 1 through December 31, during which the ERMS seasonal reports are due. Hardly any trades of ATUs [allotment trading units] for purposes of expected exceedances are performed until mid-December." IEPA proposed a "sunset" date of April 30th to signify that compliance obligations ended with the preceding ERMS season.

Responding to the Board, IEPA testified that while preparing its rulemaking proposal, IEPA discussed it with ERMS participants and presented it to industry groups. The Board later provided ERMS participants with a summary of IEPA's proposal, as well as notice of the two public hearings and opportunities to submit comments. Based on these communications, the Board found that ERMS sources are very likely to recognize the sunset date.

The Board found that, from a practical perspective, a later "sunset" would impose retroactive obligations. A later date would burden ERMS sources with outdated requirements that do not provide emissions reductions beyond more recent regulations. IEPA acknowledged that the cost of complying with these ERMS requirements varies among ERMS sources and that total compliance costs are not specifically known. However, the "sunset" would reduce IEPA's administrative costs by \$36,800 per year. These expenditures clearly outweigh zero, the current environmental benefit from ERMS.

The Board assured JCAR that it carefully considered JCAR's Objection as to "retroactivity." However, based on the dates of the ozone season, the timing of ERMS compliance activities, communications with ERMS participants, and the disproportionate cost of continued compliance with ERMS requirements, the Board could not find that its proposal sets an inappropriate "sunset" date. Accordingly, the Board declined to modify or withdraw its rule on this basis.

As to JCAR's Objection based on IEPA "implementation," the Board emphasized that it responded only for itself and declined to modify or withdraw its rule on this basis. However, the Board noted that it placed JCAR's Objection on the Board's website where it is publicly available for IEPA to review.

In its Recommendation, JCAR "recommends that, if [the Board] and [IEPA] believe this program is no longer warranted, they should seek repeal of Section 9.8 of the Environmental Protection Act [415 ILCS 5], which requires [IEPA] to design and carry out an emissions reductions market program."

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MEET THE OBJECTION AND RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

The Board observed that, as required by Section 9.8 of the Environmental Protection Act (Act), IEPA designed an emissions market system. 415 ILCS 5/9.8(b) (2016). IEPA proposed it to the Board, which adopted it as ERMS. Emissions Reduction Market System Adoption of 35 Ill. Adm. Code 205, R97-13 (Nov. 20, 1997). IEPA has implemented the program since it was adopted.

As noted above, the rulemaking record in R18-22 establishes that ERMS no longer provides emissions reductions beyond those provided by more recent federal and State regulations required under the Clean Air Act (CAA). These "command and control" regulations provide the emissions reductions required by the CAA and meet its requirement of making "reasonable further progress" toward attaining the ozone air quality standard.

Section 9.8(c)(2) of the Act requires that the Board's ERMS rules include provisions assuring "that emissions reductions under the market system will not be mandated unless it is necessary for the attainment and maintenance of the National Ambient Air Quality Standard [NAAQS] for ozone in the Chicago nonattainment area, as required of this State by applicable federal law or regulation." 415 ILCS 5/9.8(c)(2) (2016) (emphasis added). The Board's rules meet this requirement by "sunsetting" ERMS applicability to sources.

The Board found that although the ERMS rules are not necessary to attain and maintain the current NAAQS for ozone, Section 9.8 of the Act does not now require its own repeal under these circumstances. Additional emissions reductions may become necessary to meet future CAA requirements. If those reductions could be achieved through ERMS, then Section 9.8(c) lists factors for IEPA to consider when proposing a system, and rules adopted by the Board must include the provisions specified in Section 9.8(c)(1) through (c)(7).

The Board assured JCAR that it carefully considered JCAR's Recommendation but, for the reasons above, the Board respectfully declined to seek repeal of Section 9.8 of the Act. As JCAR's Recommendation is also directed to IEPA, the Board noted that it responded only for itself and that it placed JCAR's Recommendation on the Board's website where it is publicly available for IEPA to review.

DEPARTMENT OF HUMAN SERVICES

AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES
STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

December 06, 2018

Agency: Department of Human Services

Heading of the Part: Temporary Assistance for Needy Families

Code Citation: 89 Ill. Adm. Code 112

Register Citation: 42 Ill. Reg. 18495; October 12, 2018

Agency Response to Joint Committee Statement of Objection:

At its meeting on November 13, 2018, the Joint Committee on Administrative Rules considered the above-cited emergency rulemaking and objected because Section 4-2(h) of the Public Aid Code [305 ILCS] prohibits the use of emergency rulemaking to increase TANF grants and PA 100-587, which requires this increase in TANF grants, did not specifically authorize DHS to use emergency rulemaking for this purpose.

The Department of Human Services has reviewed the statement of objection from the Joint Committee on Administrative Rules regarding the above-cited rulemaking. In the future, the Department will strive to ensure that all TANF grant rules are promulgated in accordance with Section 4-2(h) of the Public Aid Code [305 ILCS].

James T. Dimas
Secretary

DEPARTMENT OF AGRICULTURE

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Industrial Hemp Pilot Program
- 2) Code Citation: 8 Ill. Adm. Code 1100
- 3) Section Numbers: 1100.10 1100.40 1100.50
- 4) Date Proposal published in *Illinois Register*: April 8, 2016; 40 Ill. Reg. 5741
- 5) Date Adoption published in *Illinois Register*: September 23, 2016; 40 Ill. Reg. 13822
- 6) Summary and Purpose of Expedited Correction: A version of the rules was published in the *Illinois Register* that differs from the file pages submitted for adoption with the Secretary of State Index Department. This expedited correction will ensure that the Administrative Code Database and the pages on file with the Index Department will now match the version published in the *Illinois Register*.
- 7) Information and questions regarding this request shall be directed to:

Albert Coll
General Counsel
801 Snagamon Ave
P.O. Box 19281
Ag Bldg – FL 001
Springfield IL 62794-9281

217/782-5051

ILLINOIS RACING BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Race Track Rules for Fire Safety
- 2) Code Citation: 11 Ill. Adm. Code 403
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
403.10	Withdrawal
403.20	Withdrawal
403.30	Withdrawal
403.40	Withdrawal
403.50	Withdrawal
403.60	Withdrawal
403.70	Withdrawal
403.80	Withdrawal
- 4) Date Notice of Proposed Amendment published in the *Illinois Register*: 42 Ill. Reg. 23677, December 21, 2018.
- 5) Reason for the Withdrawal: At the request of the Office of the Illinois State Fire Marshall, the Board wishes to withdraw its proposed rulemaking to 11 Ill. Adm. Code 403.

ILLINOIS COMMUNITY COLLEGE BOARD

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citations): Administration of the Illinois Public Community College Act, 23 Ill. Adm. Code 1501
- 1) Rulemaking:
- A) Description: PA 100-884 is the result of a detailed review of the Illinois Public Community College Act to identify statutory language that is outdated in either language or processes, programs and statutory functions no longer operational, and areas of ambiguity within the statute. The Board proposes to update its Administrative Rules to reflect the changes to the Public Community College Act.
- B) Statutory Authority: Public Community College Act [110 ILCS 805]
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: January 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:
- Matt Berry
Rules Coordinator
Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701
- 217/785-7411
fax: 217/524-4981
- G) Related rulemakings and other pertinent information: None
- 2) Rulemaking:
- A) Description: The Board proposes the adoption of new community college rules pursuant PA 100-1049. The Act establishes a tuition and fee waiver

ILLINOIS COMMUNITY COLLEGE BOARD

JANUARY 2019 REGULATORY AGENDA

for youth for whom the Department of Children and Family Services (DCFS) has legal responsibility, youth who aged out of care at age 18 or older, or youth formerly under care who have been adopted and were the subject of an adoption assistance agreement.

- B) Statutory Authority: The Children and Family Services Act [20 ILCS 505/8]
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: January 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:

Matt Berry
Rules Coordinator
Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701

217/785-7411
fax: 217/524-4981
- G) Related rulemakings and other pertinent information: None

3) Rulemaking:

- A) Description: PA 100-824 requires the ICCB adopt rules to foster the reverse transfer of credit for any student who has accumulated at least 15 hours of academic credit at a community college and a sufficient number of hours of academic credit at a State university in the prescribed courses necessary to meet a community college's requirements to be awarded an associate degree.

ILLINOIS COMMUNITY COLLEGE BOARD

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Student Transfer Achievement Reform Act [110 ILCS 150]
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: April 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:
- Matt Berry
Rules Coordinator
Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701
- 217/785-7411
fax: 217/524-4981
- G) Related rulemakings and other pertinent information: None
- 4) Rulemaking:
- A) Description: The Board proposes to amend its rules regarding dual credit to align with changes to the Dual Credit Quality Act enacted by PA 100-1049. Specifically, community college districts, upon the request of a school district, are required to enter into a partnership agreement with the school district to offer dual credit coursework in the General Education Core Curriculum. In addition, dual credit faculty qualifications are altered to allow instructors to teach dual credit courses under a professional development plan in some cases.
- B) Statutory Authority: Dual Credit Quality Act [110 ILCS 27]
- C) Scheduled meeting/hearing dates: None have been scheduled.

ILLINOIS COMMUNITY COLLEGE BOARD

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: July 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:

Matt Berry
Rules Coordinator
Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701

217/785-7411
fax: 217/524-4981

- G) Related rulemakings and other pertinent information: None

5) Rulemaking:

- A) Description: In 2019, the Board anticipates a review of administrative rules for capital projects and community colleges. These rules have not been reviewed in over five years.
- B) Statutory Authority: Public Community College Act [110 ILCS 805]
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: October 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:

Matt Berry
Rules Coordinator

ILLINOIS COMMUNITY COLLEGE BOARD

JANUARY 2019 REGULATORY AGENDA

Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701

217/785-7411
fax: 217/524-4981

G) Related rulemakings and other pertinent information: None

6) Rulemaking:

- A) Description: The Board anticipates possible amendments to its administrative rules to conform with the Grants Accountability and Transparency Act.
- B) Statutory Authority: Grant Accountability and Transparency Act [30 ILCS 708/]
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date Agency anticipates First Notice: December 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The Board believes this rulemaking will not affect small business, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:

Matt Berry
Rules Coordinator
Illinois Community College Board
401 East Capitol Avenue
Springfield IL 62701

217/785-7411
fax: 217/524-4981

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Public Information, Rulemaking and Organization, (2 Ill. Adm. Code 850)

1) Rulemaking:

- A) Description: This amendment is necessary to reflect the current organizational structure of the Department.
- B) Statutory Authority: 730 ILCS 3-2-2 and 3-2-5
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

- G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citation): Reimbursement for Expenses, (20 Ill. Adm. Code 110)

1) Rulemaking:

- A) Description: This amendment is necessary to provide corrected language for sentence credit as set forth by PA 99-938.

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: 730 ILCS 5/3-7-6 and 3-2-2.
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Rules of Conduct, (20 Ill. Adm. Code 120)
- 1) Rulemaking:
- A) Description: This amendment is necessary correct the language requiring an employee authorized to carry a firearm, who has been admitted as an inpatient in a mental health hospital, to produce a waiver from lifting the prohibition to possess a firearm or ammunition in accordance with 430 ILCS 65/10(c).
- B) Statutory Authority: 730 ILCS 5/3-2-2 and 3-7-1, 5 ILCS 430/5-15, 10-10, 10-15, and 20-70, 18 USC 922 and 720 ILCS 5/24-3.1(4)

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277
- 217/558-2200, extension 6507
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): School District #428, (20 Ill. Adm. Code 405)
- 1) Rulemaking:
- A) Description: Amendments are required to update the Rulemaking in accordance with the division between IDOC and IDJJ as IDOC is governed by the regulations of the Illinois Community College Board (ICCB), not the Illinois State Board of Education (ISBE).
- B) Statutory Authority: Implementing 730 ILCS 5/3-2-2, 3-6-2, 3-6-3, 3-8-3, 3-9-1, 3-10-2, and 3-12-3] and 105 ILCS 5/13-40 through 13-45 and authorized by 730 ILCS 5/3-2-2 and 3-7-1.
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507
- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Health Care, (20 Ill. Adm. Code 415)
- 1) Rulemaking:
- A) Description: This amendment is necessary to comply with PA 97-323.
- B) Statutory Authority: 730 ILCS 5/3-2-2, 3-6-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3, and 5-2-6
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Assignment of Committed Persons, (20 Ill. Adm. Code 420)

1) Rulemaking:

A) Description: This rulemaking is necessary to provide corrected language for sentence credit as set forth by PA 99-938 and to ensure proper awards for successful completion of programs and assignments.

B) Statutory Authority: 730 ILCS 5/3-2-2, 3-6-3, 3-8-3, and 3-10-3

C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.

D) Date Agency anticipates First Notice: On or before July 1, 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: Noneg) Part (Heading and Code Citation): Chaplaincy Services and Religious Practices, (20 Ill. Adm. Code 425)1) Rulemaking:A) Description: This rulemaking is required to comply with current law and practice as it relates to accommodations for religious diets.B) Statutory Authority: 730 ILCS 5/3-7-1C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.D) Date Agency anticipates First Notice: On or before July 1, 2019E) Affect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: Noneh) Part (Heading and Code Citation): Work Release Programs, (20 Ill. Adm. Code 455).1) Rulemaking:

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- A) Description: This rulemaking is necessary to provide that, for permanent party residents assigned as cooks, a food service sanitation certificate is preferred but not required.
- B) Statutory Authority: 730 ILCS 5/3-7-1
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019.
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277
- 217/558-2200, extension 6507
- G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citation): Release of Committed Persons, (20 Ill. Adm. Code 470)
- 1) Rulemaking:
- A) Description: This rulemaking is necessary to include the requirement for notification of no less than 14 days prior to release of any offender released early due to an award of earned discretionary sentence credit.
- B) Statutory Authority: 730 ILCS 5/3-2-2, 3-14-1, 3-14-2, and 3-14-3

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.
- D) Date Agency anticipates First Notice: On or before July 1, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277
- 217/558-2200, extension 6507
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Security, (20 Ill. Adm. Code 501).
- 1) Rulemaking:
- A) Description: This amendment is necessary to implement the Department's practice that only persons of the same gender as the offender may perform or observe strip searches of offenders and to clarify that canine searches can not be performed on humans.
- B) Statutory Authority: 720 ILCS 5/7-1, 7-3, 7-9, and 31A-1.1; 725 ILCS 5/103-1 et seq.; and 730 ILCS 5/3-2-2, 3-4-3, 3-6-2, 3-6-4, 3-7-2, 3-7-4, 3-8-1, 3-8-7, 3-8-8, and 3-10-8
- C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

during the First Notice Period per instructions that will be indicated on the Notice.

D) Date Agency anticipates First Notice: On or before July 1, 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: None

k) Part (Heading and Code Citation): Discipline and Grievances, (20 Ill. Adm. Code 504)

1) Rulemaking:

A) Description: This amendment is necessary to provide for the adoption of a receipt process for offender grievances.

B) Statutory Authority: 730 ILCS 5/3-2-2, 3-5-2, 3-6-3, 3-8-7, 3-8-8, 3-10-8, and 3-10-9

C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.

D) Date Agency anticipates First Notice: On or before July 1, 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: Nonel) Part (Heading and Code Citation): Closed Maximum Security Facility, (20 Ill. Adm. Code 505)1) Rulemaking:

A) Description: The Department intends to repeal this Part as it no longer operates facilities under this designation.

B) Statutory Authority: 730 ILCS 5/3-2-2.

C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.

D) Date Agency anticipates First Notice: On or before July 1, 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277

DEPARTMENT OF CORRECTIONS

JANUARY 2019 REGULATORY AGENDA

Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: Nonem) Part (Heading and Code Citation): Rights and Privileges, (20 Ill. Adm. Code 525)1) Rulemaking:A) Description: This rulemaking is necessary to comply with PA 96-1513, codify rules for implementation of video visitation, revise the process under which the Department reviews incoming publications, and to revise mail procedures with regard to intrastate facility correspondence.B) Statutory Authority: 730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9C) Scheduled meeting/hearing dates: The Department will accept written public comments at any time in accordance with 2 Ill. Adm. Code 850 or during the First Notice Period per instructions that will be indicated on the Notice.D) Date Agency anticipates First Notice: On or before July 1, 2019E) Affect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency contact person for information:Echo Beekman, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield IL 62794-9277

217/558-2200, extension 6507

G) Related rulemakings and other pertinent information: None

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Public Participation in the Air Pollution Control Permit Program (35 Ill. Adm. Code 252)
- 1) Rulemaking:
- A) Description: The Illinois Environmental Protection Agency (Agency) plans to amend the rules for Public Participation in the Air Pollution Control Permit Program. These changes to the public participation procedures will serve to accommodate a State Implementation Plan (SIP)-approved Prevention of Significant Deterioration (PSD) program in Illinois.
- B) Statutory Authority: Implementing and authorized by Sections 4, 9.1, 39 and 39.1 of the Illinois Environmental Protection Act. [415 ILCS 4, 9.1, 39 and 39.1]
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring/Summer 2019
- E) Effect on small business, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations would not likely be affected by this rulemaking given the PSD program is a preconstruction permitting program that, when applicable to a proposed project, typically only applies to the largest of projects that are not routinely undertaken by these parties.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Sally Carter
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

sally.carter@illinois.gov

- G) Related rulemakings and other pertinent information: This Agency rulemaking will be in conjunction with a related Pollution Control Board (Board) rulemaking. In the Board rulemaking, proposed new 35 Ill. Adm. Code Part 204, would create a state PSD permitting program. It would also include relevant amendments to the Board's procedural regulations necessary to accommodate appeals of PSD permits to the Board in 35 Ill. Adm. Code 101, General Rules, and 35 Ill. Adm. Code 105, Appeals of Final Decisions of State Agencies. Finally, the Board proposal would include relevant amendments to the Board's regulations, 35 Ill. Adm. Code 203, Major Stationary Sources Construction and Modification, 35 Ill. Adm. Code 211, Definitions and General Provisions, 35 Ill. Adm. Code 215, Organic Material Emission Standards and Limitations. The revisions to these regulations would update these provisions so that they address both the federal PSD program, which the Illinois EPA has historically implemented, and new Part 204.
- b) Part (Heading and Code Citations): Annual Emissions Report (35 Ill. Adm. Code 254)
- 1) Rulemaking:
- A) Description: The Illinois Environmental Protection Agency (Agency) plans to propose amendments removing reporting requirements related to the Emissions Reduction Market System ("ERMS") from the Annual Emissions Report rule, and to clarify and eliminate other unnecessary reporting requirements in the rule, such as provisions for annual throughput and tanks.
- B) Statutory Authority: Implementing and authorized by Section 4(b) of the Environmental Protection Act [415 ILCS 5/4(b)].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring/Summer 2019.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

corporations subject to reporting obligations under Part 254 could be impacted.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Annet Godiksen
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P. O. Box 19276
Springfield IL 62794-9276

217/782-5544

Annet.Godiksen@Illinois.gov

- G) Related rulemakings and other pertinent information: The Annual Emissions Report rule requires permitted sources to report air pollution emissions data of regulated air pollutants. The Agency has proposed that the Illinois Pollution Control Board sunset the ERMS program, as it no longer effectively provides environmental benefit. With said sunset, sources that participated in ERMS will no longer be required to submit to the Agency seasonal emissions data under Part 254.

- c) Part (Heading and Code Citation): Introduction and Definitions (35 Ill. Adm. Code 651)

1) Rulemaking:

- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Spring/Summer 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Joanne Olson
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
- 217/782-5544
Joanne.Olson@Illinois.gov
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Public Water Supply Capacity (35 Ill. Adm. Code 652)
- 1) Rulemaking:
- A) Description: The Agency plans to propose amendments updating rules pertaining to community water supplies. The proposed amendments address electronic reporting of information to the Agency and corrosion prevention projects for community water supplies.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Summer/Fall 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply could be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Rex L. Gradeless
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
- 217/782-5544
Rex.Gradeless@Illinois.gov
- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Design, Operation, and Maintenance Criteria (35 Ill. Adm. Code 653)
- 1) Rulemaking:
- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the Agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Spring/Summer 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Joanne Olson
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
- 217/782-5544
Joanne.Olson@Illinois.gov
- G) Related rulemakings and other pertinent information: None
- f) Part (Heading and Code Citations): Raw and Finished Water Quality and Quantity (35 Ill. Adm. Code 654)
- 1) Rulemaking:
- A) Description: In 2017 the Agency proposed comprehensive rules governing community water supplies to the Illinois Pollution Control Board. Upon adoption by the Illinois Pollution Control Board, the Agency plans to repeal its rules for public water supplies in Parts 651, 653 and 654.
- B) Statutory Authority: Implementing and authorized by Sections 14 through 19 of the Illinois Environmental Protection Act [415 ILCS 5/Title IV].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Spring/Summer 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations that are, or operate, a community water supply will not be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Joanne Olson
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
Joanne.Olson@Illinois.gov

- G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citations): Water Supply Operator Certification (35 Ill. Adm. Code 681)

1) Rulemaking:

- A) Description: The Agency plans to propose amendments updating rules pertaining to public water supply operators. The proposed amendments address responsible operators in charge of multiple facilities.
- B) Statutory Authority: Implementing and authorized by Section 10 of the Public Water Supply Operations Act [415 ILCS 45].
- C) Scheduled meeting/hearing dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Spring/Summer 2019

ENVIRONMENTAL PROTECTION AGENCY

JANUARY 2019 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small businesses, small municipalities, or not-for-profit corporations employing public water supply operators could be affected.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:
- Rex L. Gradeless
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
- 217/782-5544
Rex.Gradeless@Illinois.gov
- G) Related rulemakings and other pertinent information: None

HEALTH FACILITIES AND SERVICES REVIEW BOARD

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citations): Narrative and Planning Policies (77 Ill. Adm. Code 1100)
- 1) Rulemaking:
- A) Description: Definitions in this Part that also appear in other Parts of the Board's rules will be eliminated. Definitions will be added to clarify existing categories of service.
- B) Statutory Authority: 20 ILCS 3960
- C) Scheduled meeting/hearing dates: There are no meetings or hearings scheduled.
- D) Date Agency anticipates First Notice: The Board has not determined a date at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect units of small businesses, small municipalities and not-for-profit corporations that own or operate health care facilities such as hospitals, ambulatory surgical treatment centers, end stage renal dialysis facilities, freestanding emergency centers and freestanding birth centers.
- F) Agency contact person for information:
- Ann Guild
Health Facilities and Services Review Board
69 West Washington Street
Suite 3501
Chicago IL 60602
- ann.guild@illinois.gov
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citations): Health Facilities and Services Review Operational Rules (77 Ill. Adm. Code 1130)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

JANUARY 2019 REGULATORY AGENDA

1) Rulemaking:

- A) Description: This Part will be updated to reflect changes resulting from PA 100-681 and PA 100-581. In addition, necessary parties to an application for exemption will be defined. Finally, language will be clarified to state that if an application is for a new hospital that includes the neonatal intensive care category of service, the neonatal intensive care category of service is included in the application for permit. No separate application for exemption is required. Finally, non-substantive clarifications will be made where needed.
- B) Statutory Authority: 20 ILCS 3960
- C) Scheduled meeting/hearing dates: There are no meetings or hearings scheduled.
- D) Date Agency anticipates First Notice: The Board has not determined a date at this time.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect units of small businesses, small municipalities and not-for-profit corporations that own or operate health care facilities such as hospitals, ambulatory surgical treatment centers, end stage renal dialysis facilities, freestanding emergency centers and freestanding birth centers.
- F) Agency contact person for information:
- Ann Guild
Health Facilities and Services Review Board
69 West Washington Street
Suite 3501
Chicago IL 60602
- ann.guild@illinois.gov
- G) Related rulemakings and other pertinent information: Changes to this Part were described in the July, 2018 Regulatory Agenda.

HUMAN RIGHTS COMMISSION

JANUARY 2019 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Procedural Rules (56 Ill. Adm. Code 5300)

1) Rulemaking:

A) Description: Pursuant to PA 96-876 effective 02/02/10, clarifies a respondent's rights upon receipt of a notice of default issued by the Department, explains the rights of the Complainant after the Commission grants a Petition for Default, expands the timeline for complainant to request the Commission review a notice of dismissal of a charge issued by the Department, limit the number of pages for Request for Review. Pursuant to PA 100-1066, eff. 8/24/18, clarifies the duties and responsibilities of the members of the Commission, clarifies the rights of the respondent on the charge, in the case of dismissal, or the complainant, in the case of default, to file a response to the request for review.

B) Statutory Authority: Authorized by Sections 8-102(E) of the Illinois Human Rights Act [775 ILCS 8-102(E)].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated at this time.

D) Date Agency anticipates First Notice: During the next six months.

E) Effect on small business, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Evelio Mora
Assistant General Counsel
Illinois Human Rights Commission
100 W. Randolph St., Ste. 5-100
Chicago IL 60601

312/814-1914 or T.T.Y. 312/814-4760

G) Related rulemaking and other pertinent information: None

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110)
- 1) Rulemaking:
- A) Description: This Part will be amended to update regulations.
- B) Statutory Authority: Implementing and authorized by Section 8 of the State Forest Act [525 ILCS 40/8] and by Sections 1, 2, 4 and 6 of the State Parks Act [20 ILCS 835/1, 2, 4 and 6] and by Section 5 of the State Parks Designation Act [20 ILCS 840/5] and by Sections 805-10, 805-520, 805-525, 805-330, 805-335 and 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-10, 805-520, 805-525, 805-330, 805-335 and 805-515].
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- John Heidinger, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Nuisance Wildlife Control Permits (17 Ill. Adm. Code 525)
- 1) Rulemaking:
- A) Description: This Part will be amended to clarify when bats may be taken by permittees.

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: 520 ILCS 5/2.37
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: This rule has an impact on nuisance wildlife control permittees, which include for-hire cooperators and municipalities that have Class C permits. The specific effect that this change would have would increase their flexibility to escalate bat-related situations to the Department for review and consideration of allowing the take of bats within the "blackout window".
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting (17 Ill. Adm. Code 530)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.6, 2.7, 2.13, 2.27, 2.30, 2.33, 3.5, 3.27, 3.28 and 3.29]
- C) Scheduled meeting/hearing dates: None

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat, and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33 and 3.5]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

217/782-1809

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat, and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)

1) Rulemaking:

A) Description: This Part will be amended to make statewide program changes.

B) Statutory Authority: Sections 1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 1.10, 2.1, 2.2, 2.30, 2.30b, 2.33, 2.33a and 3.5]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: January

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Duck, Goose and Coot Hunting (17 Ill. Adm. Code 590)

1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7 and 3.8] and Migratory Bird Hunting (50 CFR 20)
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations:
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
- G) Related rulemakings and other pertinent information: None
- g) Part (Heading and Code Citation): Wildlife Conservation Measures and Practices (17 Ill. Adm. Code 635)
- 1) Rulemaking:
- A) Description: This Part will be amended to legalize the mowing of crops and to legalize the hunting of deer and turkey over mowed crops.
- B) Statutory Authority: Sections 1.10, 2.2, 2.3, 2.11, 2.26, 3.23, 3.25, 3.27, 3.34 and 3.36 of the Wildlife Code
- C) Scheduled meeting/hearing dates: None

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
- G) Related rulemakings and other pertinent information: None
- h) Part (Heading and Code Citation): White-Tailed Deer Hunting By Use of Firearms (17 Ill. Adm. Code 650)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

217/782-1809

G) Related rulemakings and other pertinent information: Nonei) Part (Heading and Code Citation): White-Tailed Deer Hunting By Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)1) Rulemaking:A) Description: This Part will be amended to make statewide program changes.B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36]C) Scheduled meeting/hearing dates: NoneD) Date Agency anticipates First Notice: JanuaryE) Affect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency contact person for information:Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: Nonej) Part (Heading and Code Citation): White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)1) Rulemaking:

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citation): Special White-Tailed Deer Season for Disease Control (17 Ill. Adm. Code 675)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- l) Part (Heading and Code Citation): Late-Winter Deer Hunting Season (17 Ill. Adm. Code 680)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26 and 3.36]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

217/782-1809

G) Related rulemakings and other pertinent information: Nonem) Part (Heading and Code Citation): Youth Hunting Seasons (17 Ill. Adm. Code 685)1) Rulemaking:

- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: Nonen) Part (Heading and Code Citation): Squirrel Hunting (17 Ill. Adm. Code 690)1) Rulemaking:

- A) Description: This Part will be amended to make statewide program changes.

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.20, 2.28 and 3.5]
 - C) Scheduled meeting/hearing dates: None
 - D) Date Agency anticipates First Notice: January
 - E) Affect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: None
- o) Part (Heading and Code Citation): The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
- 1) Rulemaking:
 - A) Description: This Part will be amended to make statewide program changes.
 - B) Statutory Authority: Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20]
 - C) Scheduled meeting/hearing dates: None
 - D) Date Agency anticipates First Notice: January
 - E) Affect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

p) Part (Heading and Code Citation): The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)

1) Rulemaking:

A) Description: This Part will be amended to make statewide program changes.

B) Statutory Authority: Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: January

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citation): The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: This Part will be amended to make statewide program changes.
 - B) Statutory Authority: Sections 1.3, 1.4, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.9, 2.10, 2.11 and 2.20]
 - C) Scheduled meeting/hearing dates: None
 - D) Date Agency anticipates First Notice: January
 - E) Affect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:

Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: None
- r) Part (Heading and Code Citation): Dove Hunting (17 Ill. Adm. Code 730)
 - 1) Rulemaking:
 - A) Description: This Part will be amended to make statewide program changes.
 - B) Statutory Authority: Sections 1.3 and 1.4 of the Wildlife Code [520 ILCS 5/1.3 and 1.4]
 - C) Scheduled meeting/hearing dates: None
 - D) Date Agency anticipates First Notice: January

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None
- s) Part (Heading and Code Citation): Crow, Woodcock, Snipe, Rail and Teal Hunting (17 Ill. Adm. Code 740)
- 1) Rulemaking:
- A) Description: This Part will be amended to make statewide program changes.
- B) Statutory Authority: Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.18, 2.26, 2.33 and 3.5] and Migratory Bird Hunting (50 CFR 20, August 25, 1987)
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: January
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Javonna Ackerman, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

217/782-1809

G) Related rulemakings and other pertinent information: Nonet) Part (Heading and Code Citation): Illinois Natural Areas Stewardship Grant Program (17 Ill. Adm. Code 3051)1) Rulemaking:A) Description: This Rule is being created to establish grants available to conservation land trusts for the purpose of promoting stewardship actions on eligible lands.B) Statutory Authority: Illinois Natural Areas Stewardship Act [525 ILCS 31].C) Scheduled meeting/hearing dates: NoneD) Date Agency anticipates First Notice: JanuaryE) Affect on small businesses, small municipalities or not-for-profit corporations: The Natural Areas Stewardship Grant Program will provide grants to not for profit conservation land trusts, whom may use local small businesses to perform management on eligible lands. These grants will enhance stewardship capacity within conservation land trusts in local areas.F) Agency contact person for information:Robert Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: Noneu) Part (Heading and Code Citation): Construction in Floodways of Rivers, Lakes and Streams (17 Ill. Adm. Code 3700)

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

1) Rulemaking:

A) Description: Pursuant to Executive Order 2016-13 and the 2014 House Joint Resolution HJR0095, this Part will be amended to update, clarify or simplify the current rules. The proposed amendments will add in General Provisions, Standard Permit Conditions, Emergency Permit Conditions, and eliminate the Statewide Permits section to expedite state approvals for several minor floodway construction activities that would otherwise require full environmental review processing and instead exempt such minor activities when appropriate. These proposed amendments would ensure consistent regulatory standards across the State of Illinois and allow for similar levee standards along interstate waterways. To further reduce permit application review costs and associated permit application review fees, the proposed amendments create several new General Permits for common floodplain construction activities or public body of water uses.

B) Statutory Authority: Sections 23, 29a, 30 and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 26a, 29a, 30 and 35]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: January

E) Affect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Robert G. Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

G) Related rulemakings and other pertinent information: None

v) Part (Heading and Code Citation): Regulation of Public Waters (17 Ill. Adm. Code 3704)

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: Pursuant to Executive Order 2016-13, this Part will be amended to update, clarify or simplify the current rules. The proposed amendments would ensure consistent regulatory standards across the State of Illinois.
 - B) Statutory Authority: Sections 5/18g and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/18g and 35]
 - C) Scheduled meeting/hearing dates: None
 - D) Date Agency anticipates First Notice: January
 - E) Affect on small businesses, small municipalities or not-for-profit corporations: None
 - F) Agency contact person for information:

Robert G. Mool, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809
 - G) Related rulemakings and other pertinent information: None
- w) Part (Heading and Code Citation): The Illinois Explosives Act (62 Ill. Adm. Code 200)
 - 1) Rulemaking:
 - A) Description: This Part is being amended to update, revise and clarify current language.
 - B) Statutory Authority: Implementing and authorized by the Illinois Explosives Act [225 ILCS 210] and 49 CFR 173.50, 27 CFR 555.219, 26 CFR 181.109 and 49 CFR 170 through 189.

DEPARTMENT OF NATURAL RESOURCES

JANUARY 2019 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: May
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Little to no effect to the regulated community concerning the proposed changes is anticipated.
- F) Agency contact person for information:
- Amy Wolff Oakes, Legal Counsel
One Natural Resources Way
Springfield IL 62702-1271
- 217/782-1809
- G) Related rulemakings and other pertinent information: None

OFFICE OF THE ATTORNEY GENERAL

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citations): Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)
- 1) Rulemaking:
- A) Description: The Attorney General intends to propose amendments that will update the federal poverty income guidelines found in Appendix A.
- B) Statutory Authority: Fair Patient Billing Act [210 ILCS 88/27]
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated at this time.
- D) Date Agency anticipates First Notice: February 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The proposed amendments may affect small municipalities and not-for-profit corporations that operate hospitals in Illinois by requiring the modification of their forms to reflect updated federal poverty income guideline information.
- F) Agency contact person for information:
- David F. Buysse
Deputy Chief, Public Interest Division
Office of the Illinois Attorney General
100 West Randolph Street, 12th Floor
Chicago IL 60601
- 312/814-7236
- G) Related rulemakings and other pertinent information: None

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)
- 1) Rulemaking: Docket number R19-15
- A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] requires the Board to update the Illinois definition of volatile organic material (VOM) to reflect any additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.
- The Board has reserved docket number R19-15 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period July 1, 2018 through December 31, 2018. The Board is presently aware of one federal action during this update period that affected the federal definition of VOM:
- November 28, 2018 (83 Fed. Reg. 61127): USEPA excluded a new compound from the definition of VOM. The compound is a hydrofluoroolefin that is used for making rigid polyurethane insulating foams, refrigeration, and air conditioning.
- In coming weeks, by about mid-February 2019, the Board will verify the existence of any additional federal actions that may affect the definition of VOM and determine the Board action required in response to each. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure in docket R19-15, as necessary and appropriate.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Since USEPA adopted an amendment that will require Board action on November 28, 2018, the due date for Board adoption of amendments in docket R19-15 would be November 28, 2019.

To meet a due date of November 28, 2019, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late August 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 110(a) of the federal Clean Air Act (42 USC 7410(a)) for amendment of the Illinois ozone SIP.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any other federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is November 28, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late August 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-15, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-15, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 211 is now planned. If the Board receives a rulemaking proposal under 415 ILCS 5/27 and 28, however, the Board could initiate a rulemaking at any time.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply to this proceeding. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. However, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- b) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 243)
- 1) Rulemaking: Docket number R19-14
- A) Description: Section 10(H) to the Environmental Protection Act [415 ILCS 5/10(H)] mandates that the Board adopt ambient air quality standards that are identical-in-substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA pursuant to section 109 of the federal Clean Air Act (42 USC 7409). USEPA has codified the primary and secondary NAAQS at 40 CFR 50, including provisions relative to methods for monitoring ambient air quality for the several contaminants (particulate matter, nitrogen oxides, sulfur oxides, ozone, carbon monoxide, and lead). Various other federal regulations relate to aspects of the NAAQS, such as 40 CFR 53 prescribing the procedure for approval of equivalent and reference methods and 40 CFR 81 designating air quality monitoring regions and setting forth their attainment/non-attainment status.
- The Board has reserved docket number R19-14 to accommodate any federal amendments to the NAAQS that USEPA may make during the period July 1, 2018 through December 31, 2018. The Board is presently not aware of any federal action during this update period that affected the federal NAAQS.
- In coming weeks, by about mid-February 2019, the Board will verify the existence of any federal actions that may affect the federal NAAQS and determine the Board action required in response to each. The Board will then include that action in this docket to make the Illinois ambient air quality standards identical-in-substance to the federal NAAQS in this docket R19-14, as necessary and appropriate.
- Section 10(H) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming USEPA adopted an amendment that will require Board action on the first day of the update period, July 1, 2018, the due date for Board adoption of amendments in docket R19-16 would be July 1, 2019.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

To meet a due date of July 1, 2019, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss the reserved docket R19-14.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 10(H), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10(H) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board may then schedule and conduct at least one public hearing, if required by Section 110(a) of the federal Clean Air Act (42 USC 7418) for amendment of the Illinois SIP for any air contaminant, should the Board deem such authorized and required.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will either propose any necessary amendments to the Illinois ambient air quality standards that are necessary to ensure that they are identical-in-substance to the federal NAAQS. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of an air contaminant or precursor to an air contaminant that is the subject of an NAAQS.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-14, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-14, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 243 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- c) Parts (Headings and Code Citations): Sewer Discharge Criteria (35 Ill. Adm. Code 307) Pretreatment Programs (35 Ill. Adm. Code 310)

- 1) Rulemaking: Docket number R19-13

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved docket number R19-13 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period July 1, 2018 through December 31, 2018. The Board will verify the existence of any federal actions and determine the Board action required in response to each in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R19-11, as necessary and appropriate.

The Board will verify the existence of any other federal actions that may affect the text of the federal wastewater pretreatment regulations and determine the Board action required in response to each set of federal amendments in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure under docket R19-13, as necessary and appropriate.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming the earliest USEPA action that may require Board action occurred on the first day of the update period, July 1, 2018, the due date for Board adoption of amendments in docket R19-13 would be July 1, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be July 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that discharges pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R18-14, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-13, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

312/814-6924

michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 307 or 310 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- d) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

- 1) Rulemaking: Docket number R19-16

- A) Description: The Board has reserved docket number R19-16 to accommodate any amendments to the SDWA National Primary Drinking Water Standards (NPDWRs), 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period July 1, 2018 through December 31, 2018. The Board is presently aware of two federal actions during this update period that may affect the federal wastewater pretreatment regulations. Those actions, and the Board actions in response, are described as follows:

October 12, 2018 (83 Fed. Reg. 51636): USEPA approved 100 alternative equivalent methods for drinking water analysis. The Board must incorporate the newly approved methods into the Illinois drinking water rules.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

October 31, 2018 (83 Fed. Reg. 54676): USEPA approved 100 alternative equivalent methods for drinking water analysis. The Board must incorporate the newly approved methods into the Illinois drinking water rules.

In coming weeks, by about mid-February 2019, the Board will verify the existence of any other federal actions that affect the federal NPDWRs and determine any action required in response. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R19-16, as necessary and appropriate.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. USEPA adopted an amendment that will require Board action on October 12, 2018, the due date for Board adoption of amendments in docket R19-16 would be October 12, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. Since the due date for Board adoption of amendments in this docket is October 12, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before early July 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.365 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-16, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-16, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 611 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- e) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702); UIC Permit Program (35 Ill. Adm. Code 704); Procedures for Permit Issuance (35 Ill. Adm. Code 705); Hazardous Waste Management System: General (35 Ill. Adm. Code 720); Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730); Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

- 1) Rulemaking: Presently reserved docket number R19-17

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] requires the Board to update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency' (USEPA) UIC regulations.

The Board has reserved docket number R19-17 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period July 1, 2018 through December 31, 2018. The Board is presently not aware of any federal amendments to the federal UIC rules that occurred during this update period.

The Board will verify the existence of any federal actions that affect the UIC regulations and determine the Board action required in response to each in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R19-17, as necessary and appropriate.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on July 1, 2018, the due date for Board adoption of amendments in docket R19-17 would be July 1, 2019.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-17, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-17, as follows:

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924

michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 731 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- f) Parts (Headings and Code Citations): RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702); RCRA Permit Program (35 Ill. Adm. Code 703); Procedures for Permit Issuance (35 Ill. Adm. Code 705); Hazardous Waste Management System: General (35 Ill. Adm. Code 720); Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721); Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722); Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723); Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724); Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725); Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726); Land Disposal Restrictions (35 Ill. Adm. Code 728); Standards for Universal Waste Management (35 Ill. Adm. Code 733); Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738); Standards for the Management of Used Oil (35 Ill. Adm. Code 739)
- 1) Rulemaking: Docket number R19-11

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R19-11 to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2018 through December 31, 2018. The Board is presently aware of one federal amendment to the federal RCRA Subtitle C hazardous waste regulations that occurred during this update period:

November 30, 2018 (83 Fed. Reg. 61552): USEPA excluded hazardous waste vehicle airbags from regulation as hazardous waste, provided specified conditions are met.

The Board will verify the existence of any other federal actions and determine the Board action required in response to each in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure, as necessary and appropriate.

Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Since the earliest USEPA action that requires Board action occurred on the first day of the update period, on November 30, 2018, the due date for Board adoption of amendments in docket R19-12 would be November 30, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be November 30, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before late July 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. It would also allow 30 days from the date of a Board vote to adopt amendments for USEPA to review the amendments before they are filed with the Office of the Secretary of State.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-11, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-11, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

312/814-6924

michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 731 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- g) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

- 1) Rulemaking: Docket number R19-12

- A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R19-12 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period July 1, 2018 through December 31, 2018. The Board is presently not aware of any federal amendments to the federal UST regulations that occurred during this update period. The Board will verify the existence of any federal actions and determine the Board action required in response to each in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois UST regulations using

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

the identical-in-substance procedure or dismiss docket R19-12, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on July 1, 2018, the due date for Board adoption of amendments in docket R19-12 is July 1, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket were assumed to be July 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* before late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board will promptly dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operates a UST.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-12, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-12, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 731 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- h) Part (Heading and Code Citation): Special Waste Hauling (35 Ill. Adm. Code 809)

- 1) Rulemaking: Docket No. 19-18

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- A) Description: The United States Environmental Protection Agency's ("USEPA") recent implementation of its e-Manifest system - which was primarily designed for tracking hazardous waste - is negatively and unnecessarily affecting the transportation of state-regulated, non-hazardous special waste in Illinois. This is because Illinois regulations, specifically 35 Ill. Adm. Code 809, currently require the use of USEPA's Uniform Hazardous Waste Manifest for all special waste (both hazardous and non-hazardous). The proposed amendments would allow Illinois transporters of non-hazardous special waste to obtain and use functionally identical manifests to track such waste while avoiding the significant costs and burdens associated with utilization of USEPA's e-Manifest system.
- B) Statutory Authority: Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2 and 27].
- C) Scheduled meeting/hearing dates: None Scheduled
- D) Date Agency anticipates First Notice: Spring 2019
- E) Effect on small businesses, small municipalities or not for profit corporations: Positive effect on small businesses who transport hazardous waste across state lines.
- F) Agency contact person for information:
- Daniel Pauley
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601
- 312/814-3886
Daniel.Pauley@illinois.gov
- G) Related rulemakings and other pertinent information: None
- i) Parts (Headings and Code Citations): Solid Waste (35 Ill. Adm. Code 807); Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810); Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811); Information to Be Submitted in a Permit Application

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

(35 Ill. Adm. Code 812); Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813); Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814); Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815);

1) Rulemaking: Presently reserved docket number R19-10

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R19-10 to accommodate any amendments to the RCRA Subtitle D MSWLF regulations, 40 CFR 258, that USEPA may make in the period July 1, 2018 through December 31, 2018. The Board is presently not aware of any federal action during this update period that affected the federal RCRA Subtitle D Municipal Solid Waste Landfill regulations. The Board will verify the existence of any federal actions and determine the Board action required in response to each in coming weeks, by about mid-February 2019. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R19-10, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Assuming USEPA adopted an amendment that will require Board action on the first day of the update period, July 1, 2018, the due date for Board adoption of amendments in docket R19-10 would be July 1, 2019.

- B) Statutory Authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

- D) Date Agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2019, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is July 1, 2019, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by late March 2019. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R19-10, as follows:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda, noting docket number R19-10, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect any of 35 Ill. Adm. Code 807 and 810 through 815 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- j) Part (Heading and Code Citation): Coal Combustion Waste Surface Impoundments at Power Generating Facilities (35 Ill. Adm. Code 841)

- 1) Rulemaking: Docket number R14-10

- A) Description: On October 28, 2013, the Illinois Environmental Protection Agency filed a rulemaking proposal to add a Part 841 to the Board's waste disposal regulations. The Agency stated that it proposed a generally applicable rule for coal combustion waste (CCW) surface impoundments at power generating facilities.
- B) Statutory Authority: Implementing and authorized by Sections 12, 13, 22, 27, and 28 of the Environmental Protection Act [415 ILCS 5/12, 13, 22, 27, and 28].
- C) Scheduled meeting/hearing dates: Hearings had not now been scheduled.
- D) Date Agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next twelve months.

POLLUTION CONTROL BOARD

JANUARY 2019 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: As proposed, this rule would apply to surface impoundments located at electric generating stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

Don Brown, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago IL 60601

Address questions concerning this regulatory agenda to:

Nancy Hoepfner
Pollution Control Board
2125 S. First Street
Champaign, IL 61820

217/278-3109
nancy.hoepfner@illinois.gov

- G) Related rulemakings and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal. No other rulemaking that would affect the proposed Part 841 is now planned.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- a) Parts (Heading and Code Citations): Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245); Sheltered Care Facilities Code (77 Ill. Adm. Code 330); Illinois Veterans' Homes Code (77 Ill. Adm. Code 340); Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350); Long-Term Care For Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

1) Rulemaking:

- A) Description: This rulemaking will implement PA 100-99 regarding patient and resident referrals to licensed facilities.
- B) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]; Nursing Home Care Act [210 ILCS 45]; ID/DD Community Care Act [210 ILCS 47]; MC/DD Act [210 ILCS 46]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Facilities will need to comply with new requirements regarding referrals only to licensed facilities.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- b) Part (Heading and Code Citations): Hospital Licensing Requirements (77 Ill. Adm. Code 250)
- 1) Rulemaking:
- A) Description: This rulemaking will implement PA 100-1051 regarding requirements for hospitals to develop workplace violence prevention programs that comply with OSHA guidelines for preventing workplace violence for health care and social service workers. The Department is also planning amendments to Part 250 to incorporate federal guidelines for hospitals regarding the development of an antibiotic stewardship program.
- B) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Hospitals will need to comply with new requirements regarding development of violence prevention and antibiotic stewardship.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: Similar rulemakings are planned for 77 Ill. Adm. Codes 300, 330, and 390.
- c) Part (Heading and Code Citations): Birth Center Demonstration Program Code (77 Ill. Adm. Code 265)

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

1) Rulemaking:

- A) Description: This rulemaking will implement new Centers for Medicare and Medicaid Services (CMS) requirements regarding compliance with the 2012 edition of the National Fire Protection Association 101 Life Safety Code.
- B) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Birth centers will be required to comply with updated fire and life safety standards.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: The Department is updating all its administrative codes to require compliance with the 2012 edition of the NFPA 101.

d) Part (Heading and Code Citations): Hospice Programs (77 Ill. Adm. Code 280)1) Rulemaking:

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- A) Description: This rulemaking will implement PA 100-744 regarding number of persons who may be served in a residence from 16 to 20. The Department is also planning a rulemaking to implement new Centers for Medicare and Medicaid Services (CMS) requirements regarding compliance with the 2012 edition of the National Fire Protection Association 101 Life Safety Code.
- B) Statutory Authority: Hospice Program Licensing Act [210 ILCS 60]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Hospice care facilities will need to comply with the new maximum resident occupancy restrictions.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)
- 1) Rulemaking:
- A) Description: This rulemaking will implement PA 100-297 and PA 100-432 regarding updates to the requirements for individuals listed on the

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Health Care Worker Registry and will include technical cleanup to the rule to bring it into alignment with current statutory language.

- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Facilities will need to comply with new requirements regarding the Health Care Worker Registry with regard to employing nursing assistants.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

f) Parts (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350); Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)

- 1) Rulemaking:

- A) Description: This rulemaking will implement new Centers for Medicare and Medicaid Services (CMS) and federal requirements regarding development of antibiotic stewardship programs in long-term care facilities.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]; ID/DD Community Care Act [210 ILCS 47]; MC/DD Act [210 ILCS 46]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Long-term care facilities will need to comply with new requirements regarding development of antibiotic stewardship programs.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- g) Parts (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Sheltered Care Facilities Code (77 Ill. Adm. Code 330); Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)
- 1) Rulemaking:
 - A) Description: The Department of Public Health will introduce several rulemakings to implement the following: PA 100-217 regarding requirements for staff waivers and the provisions for time residents are subject to a potentially threatening condition; PA 100-293 regarding the use of identification wristlets for residents; PA 100-297 regarding changes nurse aid registry training requirements, and PA 100-1042 regarding

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

requirements for facilities to provide residents with educational information on vaccines and immunization practices.

- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: These rulemakings will affect long-term care facilities licensed under the Nursing Home Care Act.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- h) Parts (Heading and Code Citations): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Illinois Veterans' Home Code (77 Ill. Adm. Code 340); Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350); Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
- 1) Rulemaking:
 - A) Description: This rulemaking will implement federal regulations regarding review of medication orders in licensed facilities pursuant to F756 Drug Regimen Review.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]; ID/DD Community Care Act [210 ILCS 47]; MC/DD Act [210 ILCS 46]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Facilities will need to comply with new requirements regarding review of medication orders in licensed facilities.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citations): Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)
 - 1) Rulemaking:
 - A) Description: This rulemaking will implement PA 100-915 regarding compliance with Section 2-200(a) of the Mental Health and Developmental Disabilities Code and technical clean up to bring rule into alignment with current statutory language.
 - B) Statutory Authority: ID/DD Community Care Act [210 ILCS 47]
 - C) Scheduled meeting/hearing dates: Spring 2019

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: DD facilities will need to comply with new requirements regarding information to be made available to the public and posted in the facility pursuant to Section 2-200(a) of the Mental Health and Developmental Disabilities Code.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citations): Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)
- 1) Rulemaking:
- A) Description: This rulemaking will implement PA 100-365 regarding critical incidents by community agencies and SMHRF's to facilitate accurate comparative data collection analyze.
- B) Statutory Authority: Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- E) Affect on small businesses, small municipalities or not-for-profit corporations: SMHRFs licensed under the SMHRF Act of 2013 may be affected financially if more resources are needed to comply with requirements.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citations): Long-Term Care For Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
- 1) Rulemaking:
- A) Description: This rulemaking will amend provisions to comply with the MC/DD Act regarding a de-identified database of residents who have injured facility staff, visitors or other residents for purpose of evaluating and improving resident pre-screening and assessment procedures.
- B) Statutory Authority: MC/DD Act [210 ILCS 46]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Long-term care for under age 22 facilities will be required to comply with amendments regarding reporting, pre-screening and assessment procedures.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None1) Part (Heading and Code Citations): Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395)1) Rulemaking:

A) Description: This rulemaking will amend provisions regarding instructor requirements to comply with federal code.

B) Statutory Authority: Nursing Home Care Act [210 ILCS 45], the ID/DD Community Care Act [210 ILCS 47] and the MC/DD Act [210 ILCS 46]

C) Scheduled meeting/hearing dates: Spring 2019

D) Date Agency anticipates First Notice: Summer 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: Department anticipates minimal affect on long-term facilities.

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citations): Illinois Clinical Laboratories Code (77 Ill. Adm. Code 450)

1) Rulemaking:

A) Description: This rulemaking will make technical updates and reopen formally repealed provisions regarding blood banks licensed by the FDA.

B) Statutory Authority: Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]

C) Scheduled meeting/hearing dates: Spring 2019

D) Date Agency anticipates First Notice: Summer 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: The economic impact of the proposed rulemaking is unknown.

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- n) Part (Heading and Code Citations): Illinois Vital Records Code (77 Ill. Adm. Code 500)
- 1) Rulemaking:
- A) Description: Sections 500.10, 20, 30, 40, 45, 47, 70 and 90 are being amended to update language, add definitions, clarify correction and amendment processes based on the implementation of the electronic birth and death registration system, and to include clarifying language regarding researchers' access to vital records data. Section 500.22 is being added to clarify procedures for fee waivers in regard to birth record requests.
- B) Statutory Authority: Illinois Vital Records Act [410 ILCS 535]
- C) Scheduled meeting/hearing dates:
- D) Date Agency anticipates First Notice: April, 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: County Clerks and/or Local Registrars will lose revenue on the certificates provided at no cost to inmates and homeless individuals.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information:

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

o) Part (Heading and Code Citations): Nursing Education Scholarships (77 Ill. Adm. Code 597)

1) Rulemaking:

A) Description: This rulemaking will implement PA 100-872 regarding recipients who are licensed as nurses in Illinois and have defaulted on their scholarships. In addition, the definition of "Approved institution" will be updated to reflect the statutory change from PA 100-183. Also, this rulemaking will update terminology and make changes related to nursing employment and nurse educator employment obligations.

B) Statutory Authority: Nursing Education Scholarship Law [110 ILCS 975]

C) Scheduled meeting/hearing dates: Spring 2019

D) Date Agency anticipates First Notice: Summer 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: No effect is anticipated on small businesses, small municipalities, and not-for-profit corporations.

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson Street, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information:

p) Parts (Heading and Code Citations): Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545)

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

1) Rulemaking:

- A) Description: This rulemaking will amend several sections of the Code pursuant to PA 100-775 and PA 100-1087. Updates will include new categories of hospitals with sexual assault treatment plans. Emergency rules were adopted to address requirements for hospital treatment plans that are due to the Department in January 2019.
- B) Statutory Authority: Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: Hospitals, pediatric health care facilities, and out-of-state hospitals will need to comply with new requirements.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

q) Part (Heading and Code Citations): State Loan Repayment Program (77 Ill. Adm. Code 582)

1) Rulemaking:

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- A) Description: This rulemaking will amend Section 582.115(d). Currently, the rule allows the Department to accept two applications from a medical facility in a funding year. Due to a reduction in funding, the Department needs to amend this rule to state that only one application will be accepted from a medical facility for a new SLRP applicant during the first six months of a funding year. If all SLRP federal funds are not obligated in the first six months of the funding year, the Department will open the application cycle to accept an additional application for a new participant from the same medical facility.
- B) Statutory Authority: Sections 338B and 331(i) of the Public Health Service Act (42 USC 254d(i) and 254L-1) and Section 4.10 of the Family Practice Residency Act [110 ILCS 935]
- C) Scheduled meeting/hearing dates: Spring 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: No effect is anticipated on small businesses, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson Street, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information:
- r) Part (Heading and Code Citations): Regionalized Perinatal Health Care Code (77 Ill. Admin. Code 640)

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: The Department will be revising Part 640 in its entirety pursuant to a recommendation by the Perinatal Advisory Committee to align Illinois' perinatal levels of care with the American Academy of Pediatrics 2012 policy statement: Levels of Neonatal Care.
 - B) Statutory Authority: Developmental Disability Prevention Act [410 ILCS 250]
 - C) Scheduled meeting/hearing dates: None scheduled
 - D) Date Agency anticipates First Notice: Summer 2019
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: Small physician practices may be impacted if they currently contract with hospitals to provide services under the current Part 640. Municipalities and not-for-profit corporations are not expected to be impacted.
 - F) Agency contact person for information:

Erin Conley
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov
 - G) Related rulemakings and other pertinent information: None
- s) Parts (Heading and Code Citations): Maternal and Child Health Services Code (77 Ill. Admin. Code 630); Family Planning Services Code (77 Ill. Admin. Code 635); Problem Pregnancy Health Services and Care Projects (77 Ill. Admin. Code 655); School-Based/Linked Health Centers (77 Ill. Admin. Code 641)
 - 1) Rulemaking:

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- A) **Description:** The Department will introduce several rulemakings to implement PA 99-901 which transferred Maternal and Child Health (MCH) programs from the Department of Human Services (DHS) to the Department of Public Health (DPH). Additionally, amendments will be proposed to Part 641 to add requirements around Department policies and procedures.
- B) **Statutory Authority:** Advisory Board for the Maternal and Child Health Block Grant Act [410 ILCS 221]
- C) **Scheduled meeting/hearing dates:** None scheduled
- D) **Date Agency anticipates First Notice:** Spring 2019
- E) **Effect on small businesses, small municipalities or not-for-profit corporations:** None anticipated
- F) **Agency contact person for information:**

Erin Conley
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) **Related rulemakings and other pertinent information:** The Department will propose additional amendments to Part 641 as described in this regulatory agenda.
- t) **Part(s) (Heading and Code Citations):** Maternal and Child Health Services Code (77 Ill. Admin. Code 630); Child Health and Student Examination and Immunization Code (77 Ill. Admin. Code 665); Socio-Emotional and Developmental Screening (77 Ill. Admin. Code 664) (New Part)
- 1) **Rulemaking:**

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- A) Description: The Department will introduce several rulemakings to implement PA 99-927 which requires DPH to promulgate rules regarding: age-appropriate social, emotional, and developmental screenings of school-aged children; revise the Child Health Examination Form; and promulgate rules for the use of validated socio-emotional and developmental screening tools appropriate to a child's age or grade.
- B) Statutory Authority: School Code [105 ILCS 5]
- C) Scheduled meeting/hearing dates: None scheduled
- D) Date Agency anticipates First Notice: Spring 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated

- F) Agency contact person for information:

Erin Conley
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

- u) Part (Heading and Code Citations): Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

- 1) Rulemaking:

- A) Description: The Communicable Disease (CD) Section has identified the need for revisions to the Control of Communicable Disease Code to specify needed control measures and surveillance actions to contain further spread of reportable diseases.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Communicable Disease Report Act [745 ILCS 45]; Department of Public Health Act [20 ILCS 2305]; Civil Administrative Code of Illinois (Department of Public Health Powers and Duties Law) [20 ILCS 2310]; Code of Civil Procedure [735 ILCS 5]; Animal Control Act [510 ILCS 5]; Freedom of Information Act [5 ILCS 140]; Illinois Emergency Management Act [20 ILCS 3305]; Medical Studies Act [735 ILCS 5/8-2010]; Health Statistics Act [410 ILCS 520]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Spring 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

v) Part (Heading and Code Citations): AIDS Drug Assistance Program (77 Ill. Adm. Code 692)

1) Rulemaking:

- A) Description: This rulemaking updates Appendix A with respect to the federal poverty level changing from the 2018 federal poverty level to the 2019 federal poverty level.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Ryan White HIV/AIDS Treatment Extension Act of 2009 [Public Law 111-87]; Section 314 of the Civil Administrative Code of Illinois [20 ILCS 2310/315]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Winter 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov
fax: 217/524-8165

- G) Related rulemakings and other pertinent information: None

w) Part (Heading and Code Citations): Illinois Plumbers Licensing Code (68 Illinois Administrative Code Part 750)

1) Rulemaking:

- A) Description: This rulemaking will make certain technical updates to the code including updating the definitions and certain sections relating to plumbing inspection and Cross Connection Control Device Inspectors. Updates examination, continuing education and plumbing instruction requirements.
- B) Statutory Authority: Plumbing Licensing Law [225 ILCS 320]

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The effect on small businesses, small municipalities and not-for-profit corporations is unknown at this time, but is anticipated to be beneficial to these entities in complying with the requirements without negative fiscal consequences.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None
- x) Part (Heading and Code Citations): Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730) and Food Code (77 Ill. Adm. Code 750)
- 1) Rulemaking:
- A) Description: This rulemaking adds the definition of "retail food establishment" according to the US Food and Drug Administration's 21 CFR 1.227 to the Manufacturing, Processing, Packing or Holding of Food Code 77 Ill. Adm. Code 730. This would allow local health departments to continue to inspect retail food establishments as they always have and not require IDPH to also inspect if there's a small wholesale portions of the facility.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act (410 ILCS 620) and the Sanitary Food Preparation Act [410 ILCS 650] and the Food Handling Regulation Enforcement Act [410 ILCS 625]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: There will be a minimal impact on retail and manufactured food facilities and local health departments.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None.

y) Part (Heading and Code Citations): Grade A Pasteurized Milk and Milk Products (77 Ill. Adm. Code 775)

1) Rulemaking:

- A) Description: This rulemaking updates documents referenced in the Illinois Grade "A" Pasteurized Milk and Milk Products rules. Without adoption of the most recent 2017 US Food and Drug Administration's Grade A Pasteurized Milk Ordinance documents, the movement of Illinois milk and milk products in interstate commerce could come to an end because of enforcement issues. This could have devastating economic effects, including milk plants or farms being forced out of business.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: There will be a minimal impact on bulk milk hauler/samplers, milk tank truck owners, certified pasteurizer sealers and dairy producers and processors.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None
- z) Part (Heading and Code Citations): Grade A Pasteurized Milk and Milk Products (77 Ill. Adm. Code 775) and Manufactured Dairy Products (77 Ill. Adm. Code 785)
- 1) Rulemaking:
- A) Description: This rulemaking is two parts: repeal of the Manufactured Dairy Products code, 77 Ill. Adm. Code 785 and amendment of the necessary portions of the Manufactured Dairy Products Code to be added to and referenced in the Grade A Pasteurized Milk and Milk Products Code, 77 Ill. Adm. Code 775. Our current manufactured dairy rules, for the most part, have not been amended in nearly 30 years.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635] and Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21.1]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: There will be minimal impact on manufactured dairy producers and manufactured dairy plants.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

aa) Part (Heading and Code Citations): Body Art Code (77 Ill. Adm. Code 797)

1) Rulemaking:

- A) Description: This rulemaking seeks to implement PA 99-117, which enhances the Department's enforcement authority for the Tattoo and Body Piercing Establishment Registration Act. This includes the ability to assess fines to unregistered establishments (previously only registered establishments) that provide body art services and are not in compliance. In addition, a late registration renewal fee of \$100 is being added which mirrors the late renewal fee in the tanning facilities program which is the sister program to the body art program in the Division of Food, Drugs and Dairies.

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Tattoo and Body Piercing Establishment Registration Act (410 ILCS 54)
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: There will be no impact on currently registered valid body art establishments. This will only impact those that are not registered or are late in renewing their registration.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

bb) Part (Heading and Code Citations): Recreational Area Code (77 Ill. Adm. Code 800)

1) Rulemaking:

- A) Description: This rulemaking will update existing language to provide clarity to existing processes utilized by the Department.
- B) Statutory Authority: Campground Licensing and Recreational Act [210 ILCS 95]
- C) Scheduled meeting/hearing dates: None

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

cc) Part (Heading and Code Citations): Youth Camp Act (77 Ill. Adm. Code 810)

- 1) Rulemaking:
- A) Description: This rulemaking will update and clarify the incorporated materials, add definitions, provide a section for camp safety program, and provide for current requirements for water, sewer, electric and buildings.
- B) Statutory Authority: Youth Camp Act [210 ILCS 100]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.
- F) Agency contact person for information:

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

dd) Part (Heading and Code Citations): Illinois Structural Pest Control Code (77 Illinois Administrative Code Part 830)

1) Rulemaking:

- A) Description: This rulemaking will make minor phrasing changes, allow online training to fulfill certain education requirements, note that fees are nonrefundable, establish a fee for processing checks with insufficient funds, and require pest control companies to advise the department prior to performing pretreatment for termites on structures that are under construction.
- B) Statutory Authority: Structural Pest Control Act [225 ILCS 235]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: may allow savings from online rather than in-person training; no other monetary effects anticipated for compliant individuals and companies
- F) Agency contact person for information:

Erin Conley

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

ee) Part (Heading and Code Citations): Health and Hazardous Substances Registry Code (77 Ill. Adm. Code 840)

1) Rulemaking:

A) Description: Subpart C: Adverse Pregnancy Outcomes Reporting System, Section 840.200 Adverse Pregnancy Outcome and Section 840.230 Referral of APORS Cases

This subpart provides details on the case criterion for reporting adverse pregnancy outcomes and where referrals should be made. Amendments will add exposure to human immunodeficiency virus (HIV) as a condition reportable to the Adverse Pregnancy Outcomes Reporting System.

B) Statutory Authority: Illinois Health a Illinois Health and Hazardous Substances Registry Act [410 ILCS 525]

C) Scheduled meeting/hearing dates: Proposed amendments will be reviewed by the State Board of Health

D) Date Agency anticipates First Notice: Spring 2019

E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.

F) Agency contact person for information:

Erin Conley

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

ff) Part (Heading and Code Citations): Illinois Plumbing Contractor Registration Code (77 Illinois Administrative Code Part 894)

1) Rulemaking:

- A) Description: This rulemaking will make certain technical updates to the code including updating the definitions, certain sections relating to application, bond and insurance requirements, requirements for registration of contractors performing certain plumbing work. Updates certain sections relating to violations and penalties.
- B) Statutory Authority: Plumbing Licensing Law [225 ILCS 320]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The effect on small businesses, small municipalities and not-for-profit corporations is unknown at this time, but is anticipated to be beneficial to these entities in complying with the requirements without negative fiscal consequences.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

gg) Part (Heading and Code Citations): Drinking Water Systems Code (77 Ill. Adm. Code 900)

1) Rulemaking:

A) Description: Update of federal changes to rules that govern construction, operation and monitoring of Non-community Public Water Systems.

B) Statutory Authority: Illinois Groundwater Protection Act [415 ILCS 55/9]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: Summer 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: No financial impact anticipated. Rule update requires additional surveillance for protection of and response to contaminated water. At this time in Illinois, IDPH and Local Health Departments perform this work.

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

hh) Part (Heading and Code Citations): Field Sanitation Code (77 Ill. Adm. Code 910)

1) Rulemaking:

A) Description: This rulemaking proposes changes to incorporated materials, amends definitions, and provides current requirements for water provisions, handwashing and restroom facilities.

B) Statutory Authority: Mobile Home Park Act [210 ILCS 115]

C) Scheduled meeting/hearing dates: None

D) Date Agency anticipates First Notice: Summer 2019

E) Affect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.

F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

G) Related rulemakings and other pertinent information: None

ii) Parts (Heading and Code Citations): Water Well Construction Code (77 Ill. Adm. Code 920)

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- 1) Rulemaking:
- A) Description: This rulemaking will amend permitting requirements and update construction materials to utilize modern technology.
- B) Statutory Authority: Illinois Water Well Construction Code [415 ILCS 30]
- C) Scheduled meeting/hearing dates: None
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: The rulemaking may result in a reduction in water well construction permits.
- F) Agency contact person for information:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

- G) Related rulemakings and other pertinent information: None

jj) Part (Heading and Code Citations): Migrant Labor Camp Code (77 Ill. Adm. Code 935)

- 1) Rulemaking:
- A) Description: This rulemaking will update and clarify the incorporated materials, add definitions and provide current requirements for water, sewer, electric and buildings.
- B) Statutory Authority: Migrant Labor Camp Law [210 ILCS 110]

DEPARTMENT OF PUBLIC HEALTH

JANUARY 2019 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: Summer 2019
- D) Date Agency anticipates First Notice: Summer 2019
- E) Affect on small businesses, small municipalities or not-for-profit corporations: The economic impact of this proposed rulemaking is unknown.
- F) Agency contact person for information:
- Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield IL 62761
- 217/782-2043
dph.rules@illinois.gov
- G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2019 REGULATORY AGENDA

a) Part (Heading and Code Citation): Universities Retirement (80 Ill. Adm. Code 1600)

1) Rulemaking:

A) Description: The System anticipates rulemaking affecting the following:

Amend Section 1600.110 – Freedom of Information Act. Amendments will update SURS contact information to properly direct FOIA requesters to the FOIA officers' email address and to the general SURS phone number instead of to General Counsel's contact information as is currently provided in the rule.

Add Section 1600.200 Definition of Employee to implement PA 99-897, effective January 1, 2017, regarding the definition of "employee" under Section 15-107 of the Illinois Pension Code.

Amend Section 1600.270 – Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6% and 3%. Amendments will address changes made by the General Assembly which lowered the employer cost billing threshold from 6% to 3%, extends prior exemptions for vacation payouts and collectively bargained sick leave as referenced under the 6% rule, addresses how SURS will determine whether a collectively bargained agreement will be grandfathered in under the 6% rule and clarifies grandfathering exceptions for collective bargaining agreements that were already in place before the effective date of the new 3% rule.

Amend Section 1600.271 – Employer Contributions for Earnings in Excess of the Governor's Salary. Amendments will define the measurement year as the "state fiscal year," will reflect the General Assembly's statutory change that removed the full-time equivalency calculation from the Governor's Salary Rule and adds Comptroller Intercept relief language for SURS in the event that employers fail to pay the calculated employer costs in the time allotted by statute.

Amend Section 1600.300 Effective Beneficiary Designations to address electronic execution and submission of beneficiary designation forms.

Amend Section 1600.305 – Full-Time Student Survivors Insurance Beneficiaries. Amendments will clarify that a student may qualify as

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2019 REGULATORY AGENDA

being a "full-time" student if the combination of credit hours earned by the student at one or more accredited educational institutions, during the same time frame, equals a full-time workload as defined by either of the accredited educational institutions attended.

Amend Section 1600.420 Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.

Amend Section 1600.450 Overpayment Recovery to address de minimis revisions to benefit calculations and deductions for overpayments of less than \$100.

Add Section 1600.460 – Accelerated Pension Benefit Payment in Lieu of Any Pension Benefit. This new section will include the administrative rules necessary for the implementation of Section 15-185.5 of the Illinois Pension Code which is referred to as the "Vested Inactive Buyout" or the "VIB."

Add Section 1600.461 – Accelerated Pension Benefit Payment for a Reduction and Delay in AAI. This new section will include administrative rules that are necessary for the implementation of Section 15-185.6 of the Illinois Pension Code which is referred to as the "AAI Buyout."

Amend Section 1600.625 – Benefits Affected by a QILDRO. Amendments will address the requirements for obtaining a stipulated court order before any party who is subject to a QILDRO will be allowed to obtain a "Vested Inactive Buyout" or an "AAI Buyout" under sections 15-185.5 and 15-185.6.

Promulgate rules to establish acceptable documentary evidence for demographic information such as birth dates and marital status.

Promulgate rules to provide specific definitions and procedures to implement 40 ILCS 5/15-168 (concerning information requests necessary for the proper administration of the System and suspensions for non-compliance by members and penalties for non-compliance by employers).

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2019 REGULATORY AGENDA

- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.
- C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearings are anticipated.
- D) Date Agency anticipates First Notice: Spring through Fall 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Bianca T. Green, General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820
- 217/378-8825
email: bgreen@surs.org
fax: 217/378-9801
- G) Related rulemakings and other pertinent information: Other Amendments may be necessary based on emergent issues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2019 REGULATORY AGENDA

a) Part (Heading and Code Citations): General Provisions (23 Ill. Adm. Code 2700)1) Rulemaking:

- A) Description: This Part is being revised in two areas to implement State statutory amendments and clarify issues that have arisen during the previous year.

Specifically, language is being added to support the provisions of PA 100-926, which requires public institutions of higher learning to annually provide its students or the student's parents/guardians with education loan information related to the amount of the student's or parent's borrowing.

Additionally, revisions are being made to clarify that documents listed as acceptable proof of Illinois residency are not limited to those included in the rules.

- B) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2019 REGULATORY AGENDA

Springfield IL 62704

217/782-5161

email: jackie.eckley@illinois.gov

G) Related rulemakings and other pertinent information: None

b) Part (Heading and Code Citations): Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)

1) Rulemaking:

A) Description: This Part is being revised to more accurately reflect the processing cycle for MAP. Additionally, language is being added to respond to legislation (PA 100-823), which requires ISAC to annually publish a priority deadline date for renewing applicants to ensure those applicants receive a grant.

B) Statutory Authority: Implementing Section 35 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/35 and 20(f)].

C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.

D) Date Agency anticipates First Notice: January 2019

E) Effect on small businesses, small municipalities or not-for-profit corporations: None

F) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2019 REGULATORY AGENDA

217/782-5161

email: jackie.eckley@illinois.gov

G) Related rulemakings and other pertinent information: Nonec) Part (Heading and Code Citations): Community Behavioral Health Care Professional Loan Repayment Program (23 Ill. Adm. Code 2753)1) Rulemaking:A) Description: ISAC is adding this Part in response to the creation of a new program resulting from legislation during the spring, 2018 session of the Illinois General Assembly (PA 100-862).B) Statutory Authority: Implementing the Community Behavioral Health Care Professional Loan Repayment Program Act [110 ILCS 996] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.D) Date Agency anticipates First Notice: January 2019E) Effect on small businesses, small municipalities or not-for-profit corporations: NoneF) Agency contact person for information:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704

217/782-5161

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2019 REGULATORY AGENDA

email: jackie.eckley@illinois.gov

- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citations): Nurse Educator Loan Repayment Program (23 Ill. Adm. Code 2758)
- 1) Rulemaking:
- A) Description: This Part is being revised to clarify the time period necessary to fulfill the eligibility requirement of nursing instruction.
- B) Statutory Authority: Implementing Article 10 of the Nurse Educator Assistance Act [110 ILCS 967/10] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947 and 20(f)].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704
- 217/782-5161
email: jackie.eckley@illinois.gov
- G) Related rulemakings and other pertinent information: None

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2019 REGULATORY AGENDA

- e) Part (Heading and Code Citations): AIM HIGH Grant Pilot Program (23 Ill. Adm. Code 2766)
- 1) Rulemaking:
- A) Description: It is anticipated that upcoming legislative activity related to this program will necessitate immediate rules revisions, the exact extent of which are not yet known.
- B) Statutory Authority: Implementing and authorized by Section 65.100 of the Higher Education Student Assistance Act [110 ILCS 947/65.100].
- C) Scheduled meeting/hearing dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2019
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency contact person for information:
- Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission
500 West Monroe, 3rd floor
Springfield IL 62704
- 217/782-5161
email: jackie.eckley@illinois.gov
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF TRANSPORTATION

JANUARY 2019 REGULATORY AGENDA

- a) Part (Heading and Code Citation): Aviation Safety (92 Ill. Adm. Code 14)
- 1) Rulemaking:
- A) Description: PA 100-735 was recently enacted and provides the Department with the sole authority to regulate unmanned aircraft and unmanned aircraft systems in this State. The Department, through its Division of Aeronautics, will propose changes to this Part not inconsistent with PA 100-735 and Part 107 of Title 14 of the Code of Federal Regulations. The Department will also propose to require the registration of ultralights if the aircraft are also registered with the FAA. Additional minor changes are expected.
- B) Statutory Authority: 620 ILCS 5
- C) Scheduled meeting/hearing date: None scheduled
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking may have an impact on small businesses, small municipalities, or not-for-profit corporations that own or operate manned or unmanned aircraft.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 317
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Administrative Requirements for Official Testing Stations (92 Ill. Adm. Code 451)
- 1) Rulemaking:

DEPARTMENT OF TRANSPORTATION

JANUARY 2019 REGULATORY AGENDA

- A) Description: The Department will propose significant updates to this Part to address changes in operational requirements of official testing stations. The proposed amendments will include updated procedures for the completion and submission of vehicle inspection reports, additions to the list of approved testing equipment, and amendments to CST testing and qualification requirements. Additional changes are expected.
- B) Statutory Authority: 625 ILCS 5/6-410; 625 ILCS 5/12-812; and 625 ILCS 5/Ch. 13
- C) Scheduled meeting/hearing date: None scheduled
- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect small businesses or small municipalities that operate official testing stations in Illinois.
- F) Agency contact person for information:
- Greg Stucka, Rules Manager
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 317
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Illinois Cycle Rider Safety Training Program (92 Ill. Adm. Code 455)
- 1) Rulemaking:
- A) Description: The Department will update the list of regional centers to reflect the current providers of this program. Other minor updates are expected.
- B) Statutory Authority: 625 ILCS 35
- C) Scheduled meeting/hearing date: None scheduled

DEPARTMENT OF TRANSPORTATION

JANUARY 2019 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Within six months
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: The Department does not anticipate an effect on small businesses, small municipalities, or not-for-profit corporations.
- F) Agency contact person for information:

Greg Stucka, Rules Manager
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 317
Springfield IL 62764
- G) Related rulemakings and other pertinent information: None

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 43, Issue 1 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

71 - 10	.....	1
71 - 30	.....	9
56 - 2720	.....	15
38 - 1050	.....	18
68 - 1110	.....	43
68 - 1410	.....	81
68 - 1440	.....	93
17 - 2530	.....	115
41 - 100	.....	125
41 - 149	.....	148
80 - 1540	.....	159
11 - 403	.....	823

ADOPTED RULES

89 - 406	1/1/2019	.....	187
89 - 407	1/1/2019	.....	224
89 - 408	1/1/2019	.....	265
38 - 190	1/1/2019	.....	303
89 - 112	12/20/2018	.....	327
89 - 113	12/20/2018	.....	343
89 - 121	12/20/2018	.....	360
50 - 654	12/21/2018	.....	373
50 - 910	12/21/2018	.....	386
50 - 2007	12/21/2018	.....	388
50 - 3115	12/21/2018	.....	407
50 - 3121	12/21/2018	.....	409
50 - 4415	12/21/2018	.....	413
50 - 4435	12/21/2018	.....	417
50 - 4515	12/21/2018	.....	422
74 - 650	12/21/2018	.....	437
35 - 205	12/26/2018	.....	441
35 - 720	12/6/2018	.....	446
35 - 721	12/6/2018	.....	496
35 - 722	12/6/2018	.....	563
35 - 723	12/6/2018	.....	585
35 - 724	12/6/2018	.....	601
35 - 725	12/6/2018	.....	634
35 - 739	11/19/2018	.....	667
86 - 100	12/18/2018	.....	727
2 - 560	12/20/2018	.....	751
80 - 1540	12/19/2018	.....	768
23 - 2731	1/1/2019	.....	773
23 - 2732	1/1/2019	.....	780

