

TABLE OF CONTENTS

February 3, 2017 Volume 41, Issue 5

PROPOSED RULES

ENVIRONMENTAL PROTECTION AGENCY

Water Supply Operator Certification 35 Ill. Adm. Code 681.....	748
---	-----

HUMAN SERVICES, DEPARTMENT OF

Voter Registration Program 89 Ill. Adm. Code 512.....	782
--	-----

STATE TREASURER, OFFICE OF THE

Achieving a Better Life Experience (ABLE) Account Program 74 Ill. Adm. Code 722.....	789
---	-----

STATE UNIVERSITIES RETIREMENT SYSTEM

Universities Retirement 80 Ill. Adm. Code 1600.....	808
--	-----

STUDENT ASSISTANCE COMMISSION, ILLINOIS

Illinois National Guard (ING) Grant Program 23 Ill. Adm. Code 2730.....	825
--	-----

Veterans' Home Nurse Loan Repayment Program 23 Ill. Adm. Code 2757.....	832
--	-----

Illinois Special Education Teacher Tuition Waiver (SETTW) Program 23 Ill. Adm. Code 2765.....	838
--	-----

ADOPTED RULES

BOARD OF BOILER AND PRESSURE VESSEL RULES

Boiler and Pressure Vessel Safety 41 Ill. Adm. Code 2120.....	846
--	-----

COMMERCE COMMISSION, ILLINOIS

Electric Interconnection of Distributed Generation Facilities 83 Ill. Adm. Code 466.....	862
---	-----

Electric Interconnection of Large Distributed Generation Facilities 83 Ill. Adm. Code 467.....	958
---	-----

FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF

Recording of Proceedings at Meetings and Hearings 68 Ill. Adm. Code 1120.....	976
--	-----

Illinois Athletic Trainers Practice Act 68 Ill. Adm. Code 1160.....	981
--	-----

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF

Medical Payment 89 Ill. Adm. Code 140.....	999
---	-----

Hospital Services 89 Ill. Adm. Code 148.....	1041
---	------

Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)	
--	--

89 Ill. Adm. Code 149.....	1059
Hospital Reimbursement Changes	
89 Ill. Adm. Code 152.....	1064
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS	
Access to Public Records of the Illinois Housing Development Authority (Repealer)	
2 Ill. Adm. Code 1976.....	1072
Access to Records of the Illinois Housing Development Authority (New Part)	
2 Ill. Adm. Code 1976.....	1074
POLLUTION CONTROL BOARD	
Definitions and General Provisions	
35 Ill. Adm. Code 211.....	1096
Air Quality Standards	
35 Ill. Adm. Code 243.....	1121
Sewer Discharge Criteria	
35 Ill. Adm. Code 307.....	1129
Pretreatment Programs	
35 Ill. Adm. Code 310.....	1155
Procedural Requirements for Permitted Landfills	
35 Ill. Adm. Code 813.....	1201
PEREMPTORY RULES	
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Pay Plan	
80 Ill. Adm. Code 310.....	1210
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	1233
OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER	
IL DEPT OF REVENUE	
2015 Fourth Quarter Income Tax Sunshine Index.....	1234
2015 Annual Income Tax Sunshine Index.....	1237
2016 First Quarter Income Tax Sunshine Index.....	1242
2016 Third Quarter Income Tax Sunshine Index.....	1245
2016 Fourth Quarter Income Tax Sunshine Index.....	1248
2016 Annual Income Tax Sunshine Index.....	1251
2016 Fourth Quarter Sales & Miscellaneous Tax Sunshine Index.....	1255
2016 Annual Sales & Miscellaneous Tax Sunshine Index.....	1260

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 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017

21	May 15, 2017	May 26, 2017
22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
42	October 10, 2017	October 20, 2017
43	October 16, 2017	October 27, 2017
44	October 23, 2017	November 3, 2017
45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Water Supply Operator Certification
- 2) Code Citation: 35 Ill. Adm. Code 681
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
681.105	Amendment
681.110	Amendment
681.200	Amendment
681.205	Amendment
681.300	Amendment
681.305	Amendment
681.325	Amendment
681.500	Amendment
681.505	Amendment
681.510	Amendment
681.600	Amendment
681.605	Amendment
681.715	Amendment
681.720	Amendment
681.725	Amendment
681.740	New Section
681.745	New Section
681.805	Amendment
681.810	Amendment
681.820	Amendment
681.825	Amendment
681.835	Amendment
681.1000	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 10 of the Public Water Supply Operations Act [415 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The Agency seeks to update the rules governing the certification of drinking water operators. These proposed amendments include updates to (1) examination procedures; (2) calculation of experience necessary for certification; (3) procedures to grant reciprocal certification, including reciprocity for members of United States armed forces; (4) facility classifications, set forth in PA 99-78; and (5) duties of the contract operator, set forth in PA 99-78. The Agency also clarifies that fees collected under this part are not refundable.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed 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 create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on the proposed rules may submit them in writing by no later than 45 days after publication of this Notice to:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
email: stephanie.flowers@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small businesses, small municipalities or not-for-profit corporations that are the owners of a community water supply under 35 Ill. Adm. Code 603.101.
 - B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 681
WATER SUPPLY OPERATOR CERTIFICATION

SUBPART A: GENERAL

Section	
681.100	Purpose
681.105	Definitions
681.110	Fees

SUBPART B: CERTIFIED OPERATOR CLASSIFICATIONS AND REQUIREMENT

Section	
681.200	Facility Classification
681.205	Certification Classification
681.210	Examination Classification
681.215	Certified Operator Requirement

SUBPART C: EXAMINATION

Section	
681.300	Water Supply Operator Examination of Competency
681.305	Eligibility
681.310	Examination Request
681.315	Eligibility Determination and Letter of Admission
681.320	Review of Eligibility Determination
681.325	Examination Admission
681.330	Standards for Examination and Grading
681.335	Examination Results
681.340	Six Year Score Validity
681.345	Reexamination

SUBPART D: WATER SUPPLY OPERATOR IN TRAINING

Section	
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

681.400	Operator In Training
681.405	Duration
681.410	Limitations

SUBPART E: CERTIFIED OPERATOR

Section	
681.500	Standard of Issuance
681.505	Application
681.510	Agency Determination
681.515	Review of Agency Determination

SUBPART F: RECIPROCITY

Section	
681.600	Application for Reciprocal Certification
681.605	Reciprocity Determination
681.610	Change in Classification

SUBPART G: SANCTIONS

Section	
681.700	Causes
681.705	Citizen Complaints
681.710	Procedures
681.715	Hearing
681.720	Advisory Board
681.725	Director's Decision
681.730	Sanctions
681.735	Appeal
681.740	Ex Parte Communications
681.745	Subpoena

SUBPART H: CERTIFICATE RENEWAL, RESTORATION AND REQUIRED TRAINING

Section	
681.800	Certificate Expiration
681.805	Certificate Renewal Application Form
681.810	Restoration of Expired Certificates

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

681.815	Renewal Training Requirements
681.820	Training Criteria
681.825	Calculation of Training Hours for Certificate Renewal
681.830	Proof of Training Records, Record Keeping, Audits
681.835	Submission of Training Hours
681.840	Waiver of Required Training
681.845	Issuance of Renewed and Restored Certificates
681.850	Contested Renewal, Restoration and Training Determinations

SUBPART I: GRANDPARENTING

Section	
681.900	Grandparenting

SUBPART J: CONTRACTUAL OPERATION

Section	
681.1000	Required Contract Provisions
681.1005	Documentation of Contract Provisions
681.1010	Request for Contract Approval
681.1015	Agency Review of the Contract
681.1020	Withdrawal of Approval of the Contract
681.1025	Contract Modifications and Extensions
681.1030	Termination of Contract

681.APPENDIX A Reference to Previous Rules

AUTHORITY: Implementing and authorized by Section 10 of the Public Water Supply Operations Act [415 ILCS 45].

SOURCE: Adopted at 38 Ill. Reg. 7114, effective April 1, 2014; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 681.105 Definitions

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

In addition to these definitions, all definitions of the Illinois Environmental Protection Act [415 ILCS 5], the Public Water Supply Operations Act [415 ILCS 45], and 35 Ill. Adm. Code 601 and 611 shall apply to this Part. For purposes of this Part:

"Advisory Board" means the Water Supply Operator Advisory Board provided for under Section 11 of the Law.

"Agency" or "IEPA" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

~~"Continuing Education Unit" or "CEU" means 10 training contact hours in which one training contact hour is a 60 minute classroom session of instruction or its equivalent.~~

"Contract Operator" means ~~an individual a natural person~~ certified as competent as a water supply operator under the Law who operates or supervises the operation of a community water supply by contractual agreement with the owner.

"Drinking Water Training" means written or practical study done by an operator in the area of water treatment or distribution.

"Equivalent to a High School Education" means a General Education Development (GED) test.

"Examination" means a test, written in English, required to be taken by the applicant for certification.

"Grandparenting" means the exemption for the registered persons in responsible charge of a previously-exempt community water supply, as of July 9, 1999, from meeting the initial education and examination requirements for the class of certification the community water supply has been assigned [415 ILCS 45/9.3].

"Hands-on~~On~~" or "Necessary Skills, Knowledge, Ability and Judgment" means the knowledge acquired from daily operating experience rather than from text book study or supervisory observation. It means the applicant has actually operated a water plant or water supply or worked on the distribution system and has performed tasks including, but not limited to, routine tests, sample collection, completion of operational reports, calculation of chemical dosages and subsequent

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

adjustment of chemical feeders or backwashed filters.

"Law" means the Public Water Supply Operations Act [415 ILCS 45].

"Quarter Hours/Semester Hours" means the unit of credit assigned for courses offered by colleges and universities.

"Responsible Charge" means active, on-site charge or performance of operation of the treatment plant or distribution system of a public water supply or comparable water supply.

"Water Supply Operator" means any ~~individual natural person~~ trained in the treatment or distribution of water who has practical working knowledge of the chemical, biological, and physical sciences essential to the practical mechanics of water treatment or distribution and who is capable of conducting and maintaining the water treatment or distribution processes in a manner which will provide safe, potable water for human consumption [415 ILCS 45/4].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.110 Fees

All fees collected by the Agency under this Part shall be deposited into the Environmental Protection Permit and Inspection Fund in accordance with Section 22.8 of the Environmental Protection Act. Fees paid pursuant to this Part are not refundable. The fees required by Section 22 of the Law and this Part are as follows:

- a) *The fee to be paid by an applicant for an Illinois certificate of competency is \$30. [415 ILCS 45/22(a)]*
- b) *The fee to be paid by an applicant for the examination to determine fitness to receive a certificate of competency is \$10. [415 ILCS 45/22(b)(1)]*
- c) *The fee to be paid by an applicant for the issuance of a reciprocal certificate of competency is \$10. [415 ILCS 45/22(b)(2)]*
- d) *The fee to be paid by an applicant for the renewal of a certificate of competency is \$10. [415 ILCS 45/22(b)(4)]*

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- e) *The fee to be paid by an applicant for the restoration of a certificate of competency is \$10. [415 ILCS 45/22(b)(5)] The restoration fee must be paid in addition to the \$10 renewal fee.*
- f) *The fee to be paid by an applicant for the issuance of a duplicate certificate of competency is \$10. [415 ILCS 45/22(b)(6)]*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: CERTIFIED OPERATOR CLASSIFICATIONS AND REQUIREMENT

Section 681.200 Facility Classification

Community water supply facilities are classified as follows:

- a) *A Class A community water supply means any surface water community water supply and any community water supply that~~Each community water supply which includes coagulation, lime softening, ultraviolet disinfection, membrane filtration (including reverse osmosis), or sedimentation as part of its primary treatment shall be considered a Class A facility.~~ [415 ILCS 45/5.12(a)]*
- b) *A Class B community water supply means any~~Each~~ community water supply that~~which~~ includes filtration (other than membrane filtration), aeration and filtration (other than membrane filtration), or ion exchange equipment as a part of its primary treatment, and is not a Class A community water supply~~shall be considered a Class B facility.~~ [415 ILCS 45/5.12(b)] Facilities with aeration but without filtration or ion exchange are not considered Class B facilities.*
- c) *A Class C community water supply means any~~Each~~ community water supply that~~uses which utilizes~~ chemical feeding, and is not a Class A or Class B community water supply~~only shall be considered a Class C facility.~~ [415 ILCS 45/5.12(c)]*
- d) *A Class D community water supply means any~~Each~~ community water supply that~~has in which the facilities are limited to~~ pumpage, storage, or distribution facilities, and is not a Class A, Class B or Class C community water supply~~shall be considered a Class D facility.~~ [415 ILCS 45/5.12(d)]*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 681.205 Certification Classification

- a) The Agency may issue a Certificate of Competency for any of the four classes of certification specified in this Section.
- b) For each class of certification, the water supply operator must demonstrate the necessary skills, knowledge, ability and judgment of the chemical, biological and physical sciences essential to the practical mechanics of the following:
 - 1) Class A Certification: coagulation, lime softening, ultraviolet disinfection, membrane filtration, ~~or~~ sedimentation, filtration, aeration and filtration, ion exchange, chemical feeding and calculation of dosage, pumpage, storage and distribution.
 - 2) Class B Certification: filtration (other than membrane filtration), aeration and filtration (other than membrane filtration), ~~or~~ ion exchange systems, chemical feeding and calculation of dosage, pumpage, storage and distribution.
 - 3) Class C Certification: chemical feeding and calculation of dosage, pumpage, storage and distribution.
 - 4) Class D Certification: pumpage, storage and~~or~~ distribution.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: EXAMINATION

Section 681.300 Water Supply Operator Examination of Competency

- a) The purpose of the water supply operator examination of competency is to test a person's skills, knowledge, ability and judgment of the chemical, biological and physical sciences essential to the treatment of drinking water, as well as the person's ability to read and write English.
- b) The Agency or its designee shall administer water supply operator examinations at times and locations throughout the State as determined by the Agency.
- ~~b) The Agency or its designee may administer an unscheduled water supply operator~~

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~examination upon request.~~

- c) No person shall take the water supply operator examination more than four times in one calendar year unless the person has passed any water supply operator examination during that calendar year.
- d) The maximum time allowed for any person taking a water supply operator examination of competency shall be five hours, unless a request for a reasonable accommodation has been received and approved by the Agency in writing prior to the beginning of the examination.
- e) Any person may submit a request for a reasonable accommodation for an eligible disability under the Americans With Disabilities Act (42 USC 12101 et seq.) and the Illinois Human Rights Act [775 ILCS 5].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.305 Eligibility

- a) Unless otherwise provided by this Section, any person who meets the following requirements shall be eligible to take a water supply operator examination:
 - ~~1)~~ ~~the applicant has graduated from high school or has the equivalent to a high school education;~~
 - ~~1)2)~~ the applicant is able to read and write English;
 - ~~2)3)~~ the applicant has submitted evidence of his or her character; and
 - ~~3)4)~~ the applicant has paid the required \$10 examination fee.
- b) Any person who has had or has been exposed to typhoid fever or amoebic dysentery will be required to demonstrate that the person is not a carrier. If the person is a carrier, that person will not be allowed to take the water supply operator examination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.325 Examination Admission

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- a) A person who has submitted an examination request and received a Letter of Admission must schedule the examination at least seven days prior to the examination. The Agency shall provide instructions for scheduling the examination with the Letter of Admission.
- b) Each person with a Letter of Admission will be admitted to one water supply operator examination.
- c) The Letter of Admission and one state government issued photo identification must be presented to the examination proctor to take the examination.
- d) Any person seeking to take a water supply operator examination for more than one class of certification must obtain a Letter of Admission for each water supply operator examination. A separate examination request and fee must be provided to the Agency for each examination before the Agency will issue Letters of Admission.
- e) Notwithstanding subsections (a) through (d), no person, unless previously approved by the Agency, will be allowed to take the water supply operator examination with any of the following items in his or her possession:
- 1) a cellular phone, computer or tablet;
 - 2) any recording device or device with a camera;
 - 3) a radio or any other communication device;
 - 4) books, notes or other papers not provided by the Agency;
 - 5) any weapon; or
 - 6) any technology that the exam proctor determines compromises the security of the examination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: CERTIFIED OPERATOR

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 681.500 Standard of Issuance

A water supply operator becomes certified upon the Agency's issuance of a Certificate of Competency to the operator. The Agency shall issue a Certificate of Competency when the applicant demonstrates all the following:

- a) The applicant *is capable of performing his or her duties without endangering the health and well being of the populace and is capable of maintaining and properly operating the structures and equipment entrusted to his or her care.* [415 ILCS 45/14]
- b) The applicant *is capable of conducting and maintaining the water treatment or distribution processes in a manner which will provide safe, potable water for human consumption.* [415 ILCS 45/4]
- c) The applicant *has graduated from high school or has the equivalent to a high school education, and the applicant is able to read and write English.* [415 ILCS 45/14]
- d) The applicant *has submitted evidence of his or her character.* [415 ILCS 45/14]
The Agency shall consider the following as evidence of poor character:
 - 1) The applicant has been sanctioned pursuant to Subpart G of this Part or had his or her certificate of competency revoked or suspended; or
 - 2) The applicant has been convicted of violating any of the following statutes:
 - A) Section 44 of the Illinois Environmental Protection Act [415 ILCS 5/44] (Violations of the Illinois Environmental Protection Act);
 - B) Section 29D-14.9 of the Criminal Code of 2012 [720 ILCS 5/29D-14.9] (Terrorism);
 - C) Section 29D-15.1 of the Criminal Code of 2012 [720 ILCS 5/29D-15.1] (Causing a Catastrophe); or
 - D) Section 29D-20 of the Criminal Code of 2012 [720 ILCS 5/29D-20] (Making a Terrorist Threat).

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- e) The applicant has paid the fee or fees required by Section 681.110 of this Part.
- f) For Class A Certification:
- 1) The applicant has the knowledge, skills, ability and judgment specified in Section 681.205(b)(1) of this Part;
 - 2) The applicant has a valid passing score on the Class A water supply operator examination; and
 - 3) The applicant has at least 5340 hours~~three years~~ of study, training and hands-on~~responsible~~ experience in water supply operation or management of a Class A facility that is acceptable to the Agency.
 - A) A minimum of 2670 hours~~1½ years~~ of experience, calculated pursuant to Section 681.510(c), must be hands-on in the following areas: coagulation, lime softening, ultraviolet disinfection, membrane filtration, or sedimentation.
 - B) The Agency may grant up to 1780 hours~~one year~~ of credit for non-college educational endeavors pursuant to Section 681.510(d)(2).
 - C) The Agency may grant up to 2670 hours~~1½ years~~ of credit for college educational endeavors pursuant to Section 681.510(d)(1).
- g) For Class B Certification:
- 1) The applicant has the knowledge, skills, ability and judgment specified in Section 681.205(b)(2) of this Part;
 - 2) The applicant has a valid passing score on the Class A or Class B water supply operator examination; and
 - 3) The applicant has at least 5340 hours~~three years~~ of study, training and hands-on~~responsible~~ experience in water supply operation or management of a Class B facility that is acceptable to the Agency.
 - A) A minimum of 2670 hours~~1½ years~~ of experience, calculated

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

pursuant to Section 681.510(c), must be hands-on in the following areas: filtration, aeration and filtration, or ion exchange.

- B) The Agency may grant up to 1780 hours~~one year~~ of credit for non-college educational endeavors pursuant to Section 681.510(d)(2).
- C) The Agency may grant up to 2670 hours~~1½~~ of credit for college educational endeavors pursuant to Section 681.510(d)(1).
- h) For Class C Certification:
- 1) The applicant has the knowledge, skills, ability and judgment specified in Section 681.205(b)(3) of this Part;
 - 2) The applicant has a valid passing score on the Class A, Class B or Class C water supply operator examination; and
 - 3) The applicant has at least 1780 hours~~one year~~ of study, training and hands-on~~responsible~~ experience in water supply operation or management of a Class C facility that is acceptable to the Agency.
 - A) A minimum of 890 hours~~six months~~ of experience, calculated pursuant to Section 681.510(c), must be hands-on in the following areas: chemical feeding and calculation of dosage.
 - B) The Agency may grant up to 890 hours~~six months~~ of credit for college or non-college educational endeavors pursuant to Section 681.510(d).
- i) For Class D Certification:
- 1) The applicant has the knowledge, skills, ability and judgment specified in Section 681.205(b)(4)~~of this Part~~;
 - 2) The applicant has a valid passing score on any water supply operator examination; and
 - 3) The applicant has at least 890 hours~~six months~~ of study, training and hands-on~~responsible~~ experience in water supply operation or management

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

of a Class D facility that is acceptable to the Agency.

- A) A minimum of 445 hours~~three months~~ of experience, calculated pursuant to Section 681.510(c), must be hands-on in the following areas: pumpage, storage and distribution.
- B) The Agency may grant up to 445 hours~~three months~~ of credit for college or non-college educational endeavors.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.505 Application

- a) Any individual who seeks to obtain a Certificate of Competency must file an application on forms prescribed by the Agency. All applications must be in English and must contain:
 - 1) a statement specifying the class of certification sought by the applicant;
 - 2) statements showing the applicant's level of education and experience;
 - A) The applicant must specify the number of hours per week, and the number of weeks, he or she has operated the following at a drinking water treatment plant: coagulation, lime softening, ultraviolet disinfection, membrane filtration, sedimentation, filtration, aeration and filtration, ion exchange, chemical feeding and calculation of dosage, pumpage, storage and distribution.
 - B) For college-credit educational endeavors, the applicant must submit his or her college transcript.
 - C) For non-college-credit educational endeavors, the applicant must submit the name of the drinking water course work or other training, the provider that offered the drinking water course work or other training, and proof of completion of drinking water course work or other training;
 - 3) at least three references;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 4) evidence that the applicant has a valid passing score on the water supply operator examination, including but not limited to test dates and scores;
 - 5) the signature of the applicant; and
 - 6) the \$30 fee required by Section 681.110 ~~of this Part.~~
- b) Information required in an application must be complete and accurate.
 - c) Falsification of any information in the application will result in denial of the application and be grounds for sanctions of current certificates held by the applicant.
 - d) Applications must be submitted to the Agency at the following address:

Illinois Environmental Protection Agency
Drinking Water Compliance Assurance Section #19
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.510 Agency Determination

- a) Upon receipt of a complete application, the Agency shall review the application and determine whether the applicant has made an adequate demonstration pursuant to the standards of issuance specified in Section 681.500 of this Part.
- b) The Agency shall ~~deny incomplete applications~~ grant appropriate credit for the study, training and responsible experience requirements in Section 681.500 of this Part.
 - 1) ~~The Agency shall grant appropriate credit for attendance and successful completion of waterworks seminars, waterworks short courses, waterworks workshops, and applicable correspondence courses. The maximum allowable credit for such non-college-credit educational endeavor shall be one year. [415 ILCS 45/15(a)]~~

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 2) ~~The Agency shall grant one year credit for the satisfactory completion of each one fourth of the total hours of academic credit required for the awarding of a Baccalaureate Degree in a curriculum associated with a phase of water supply operation. The maximum allowable credit for such college credit educational endeavor shall be 1½ years. [415 ILCS 45/15(b)]~~
- c) Hands-on Experience. Hands-on credit shall be awarded for each hour of work or experience at a community water supply on coagulation, lime softening, ultraviolet disinfection, membrane filtration, sedimentation, filtration, aeration and filtration, ion exchange, chemical feeding, calculation of dosages, pumpage, storage and distribution.
- d) Educational Credit. The Agency shall grant appropriate credit according to the following guidelines:
- 1) College-credit educational endeavors. The Agency shall grant 60 hours of appropriate credit for each college credit hour earned in the following coursework:
- A) chemistry;
 - B) geology;
 - C) biology;
 - D) physics;
 - E) engineering;
 - F) mathematics; or
 - G) drinking water treatment or distribution.
- 2) Non-college-credit educational endeavors
- A) Environmental Resource Training Center. For each completed drinking water treatment course offered by the Environmental Resource Training Center, the Agency shall grant 180 hours of

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

appropriate credit.

B) Other Drinking Water Course Work

i) The Agency shall grant 1 hour of appropriate credit for each hour of attendance at an Agency approved drinking water treatment course, seminar, workshop or other training.

ii) The maximum credit the Agency may grant to a drinking water course, seminar, workshop or other training is 180 hours per course.

iii) Any training used for educational credit under this subsection (d)(2)(B) shall not be used for certificate renewal pursuant to Section 681.815.

iv) The Agency may approve a drinking water course before or after it has been completed.

~~e)~~ When the Agency determines an applicant has met the requirements of the Law and Section 681.500 of this Part, the Agency shall award a Certificate of Competency to the applicant for the class of certification specified in the application.

~~f)~~ The Agency shall notify the applicant in writing of the Agency's decision within 45 days after the receipt of the complete application.

~~e)~~ ~~Any applicant who fails to make the required demonstration pursuant to Section 681.500 of this Part may request, not later than one year from the date the Agency received the application, a reevaluation without paying an additional fee.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART F: RECIPROCITY

Section 681.600 Application for Reciprocal Certification

a) The Agency may grant water supply operators certified by another state, territory

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

or possession of the United States, or any other country, reciprocal certification in Illinois without examination. A water supply operator seeking reciprocity under this subsection must submit the following:

- b) ~~An individual seeking reciprocity must submit an application that includes the following information:~~
- 1) ~~the application for reciprocal certification on forms prescribed by the Agency~~Illinois application requirements found in Section 681.505 of this Part, except the examination requirements in subsection (a)(4) of that Section;
 - 2) ~~the classification of Illinois certification for which application is being made;~~
 - 3) ~~a detailed description of the qualifications to obtain certification from the other certifying jurisdiction;~~
 - 2)4) evidence that the certificate issued by the other certifying jurisdiction is in good standing and has not expired; and
 - 5) ~~a representative copy of the regulations and examination of the other certifying jurisdiction for comparison with Illinois' regulations and examinations; and~~
 - 3)6) ~~a letter of authorization from the applicant~~ for authorizing the State of Illinois to contact the other certifying jurisdiction that issued the applicant's certificate to enable Illinois to verify information submitted in the application.
- b) In accordance with Section 681.605, the Agency may grant reciprocal certification to a water supply operator trained by the United States as a member of the United States Air Force, Army, Coast Guard, Marine Corps or Navy (U.S. Armed Forces) without examination.
- 1) A water supply operator seeking reciprocity under this subsection (b) must submit the following:
 - A) the Illinois application requirements found in Section 681.505,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

except Section 681.505(a)(4);

- B) a detailed description of the qualifications, training and jobs performed while in the U.S. Armed Forces;
- C) a copy of his or her military training, qualifications and performance records; and
- D) a letter of authorization from the applicant authorizing the State of Illinois to contact the U.S. Armed Forces to enable Illinois to verify information submitted in the application.

2) The water supply operator must have the following hands-on experience for the level of certification sought:

- A) three years of hands-on experience for a Class A certification;
- B) three years of hands-on experience for a Class B certification;
- C) one year of hands-on experience for a Class C certification; or
- D) six months of hands-on experience for a Class D certification.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.605 Reciprocity Determination

- a) An applicant for a ~~Class A, Class B, Class C or Class D~~ Certificate of Competency who possesses a valid drinking water treatment certificate or license issued under the laws of another certifying jurisdiction, or was trained as water supply operator by the United States as a member of the Air Force, Army, Coast Guard, Marine Corps or Navy, will be issued an Illinois Certificate of Competency, without examination, provided:
 - 1) The Agency ~~determines~~may determine by reviewing the other certifying jurisdiction's requirements that the applicant has met minimum standards equivalent to or more stringent than the standards specified in the Law and Section 681.500 and Section 681.600 of this Part prior to receiving the certificate from the other certifying jurisdiction;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 2) The other certifying jurisdiction that issued the certificate to the applicant accepts, by reciprocity, certificates issued by the Agency; ~~and~~
 - 3) The applicant resides in Illinois or is employed at a public water supply in Illinois; ~~and-~~
 - 4) The applicant has paid the fee or fees required by Section 681.110 of this Part.
- b) An applicant satisfying subsections (a)(1) and (a)(2), but failing to meet the residency requirements of subsection (a)(3), shall be issued a notice of intent to grant reciprocity. The applicant must submit proof of Illinois residency or employment at a public water supply in Illinois within 90 days after the issuance of the notice of intent. Upon receipt of ~~that~~such proof, the Agency shall issue an Illinois Certificate of Competency. Should ~~the~~that applicant fail to submit proof of the requirements in subsection (a)(3) within 90 days after issuance of the notice, the notice of intent shall become void.
- c) Applications for reciprocity described in Section 681.600 ~~of this Part~~ shall be reviewed by the Agency as follows:
- 1) The Agency shall review each applicant's education and experience to determine the levels of certification for which the applicant is eligible pursuant to Subpart E ~~of this Part~~;
 - 2) The Agency shall contact the certifying officials from the other certifying jurisdiction to determine the level of certification of the applicant for reciprocity and whether the certificate is currently valid;
 - 3) The Agency shall compare the applicant's qualifications and the other certifying jurisdiction's eligibility requirements for certification with those described in Subpart E; ~~and of this Part~~
 - 4) If the Agency determines to determine if the requirements of subsection (a) ~~of this Section~~ are fulfilled, the Agency shall grant; ~~if so,~~ reciprocity ~~shall be granted~~ at the appropriate level.;
 - 4) ~~If it is determined that reciprocity should be granted, the Agency shall~~

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

~~issue the appropriate class of Certificate of Competency to the applicant and shall notify a certifying official from the other certifying jurisdiction; and~~

- 5) ~~If it is determined that reciprocity should not be granted, the Agency shall notify the applicant and a certifying official from the other certifying jurisdiction, and provide reasons for the decision.~~
- d) If a Certificate of Competency issued by the State of Illinois~~that has been issued~~ through reciprocity is suspended or revoked pursuant to Subpart G ~~of this Part~~, the Agency shall notify a certifying official from the other certifying jurisdiction.
- e) An applicant who is denied reciprocity or who is given a lower level of certification than the one requested shall have an opportunity for a hearing with the Advisory Board. The Advisory Board shall review the determination and provide a recommendation to the Agency.
- f) The Agency shall consider the Advisory Board's recommendation and notify the applicant in writing of the Agency's final decision within 45 days after the receipt of the Advisory Board's recommendation. This decision is appealable to the Illinois Pollution Control Board pursuant to Section 12 of the Law.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART G: SANCTIONS

Section 681.715 Hearing

- a) If the operator files a hearing request, the hearing officer shall set a time and place for the hearing, not more than 180 days after the service of the complaint, and provide notice of the hearing to the Agency and the operator. The Hearing Notice shall contain:
- 1) A statement of the nature of the hearing, including a reference to the particular law or regulation involved;
 - 2) A statement that the hearing will be held in accordance with the Law and this Part; and

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 3) A statement of the date, time and place of the hearing and, if a pre-hearing conference is scheduled by the hearing officer, the date, time and place of that conference.
- b) In addition to the service requirements in Section 681.710 ~~of this Part~~, the hearing officer shall serve the Hearing Notice on the Advisory Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.720 Advisory Board

- a) Within 30 days after the conclusion of a hearing, the~~The~~ hearing officer shall provide a copy of the following to the Advisory Board:
 - 1) hearing transcript;~~to the Advisory Board. The Agency shall pay the cost of providing transcripts.~~
 - 2) hearing exhibits; and
 - 3) instructions on how the Advisory Board can file a recommendation, including the name and mailing address of the Docket Clerk and any person who must be sent a copy of the Advisory Board's recommendation.
- b) The Advisory Board may make a recommendation in writing~~shall recommend~~ on the basis of the hearing transcript whether a sanction is appropriate and, if a sanction is appropriate, the suspension or revocation period.
- c) The rules of evidence specified in 35 Ill. Adm. Code 168.270 shall not apply to the Advisory Board's recommendation.
- ~~d)~~e) The Advisory Board recommendation shall be submitted in writing to the Docket Clerk within 30 days after receipt of transcripts and shall include a statement of reasons for the Advisory Board's actions.
- e) If the Advisory Board makes a recommendation, the Advisory Board shall send a copy of the recommendation to the hearing officer, the Agency and the operator.
- ~~f)~~ The Agency may issue a decision without the Advisory Board's recommendation if the Advisory Board fails to submit its recommendation within 30 days after its

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

receipt of the hearing transcript.

- g) The Advisory Board's recommendation is not binding on the Director.
- h) The Agency or the operator may file a response to the Advisory Board's recommendation within 15 days after the day the Advisory Board files its recommendation with the Docket Clerk.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.725 Director's Decision

- a) Proposal for Decision
 - 1) When a hearing is held pursuant to Section 681.715, the hearing officer shall file with the Director or the Director's designee, and serve upon the Agency and operator, a proposal for decision within 120 days from the date of the hearing.
 - 2) If a hearing is not held, the hearing officer shall file with the Director or the Director's designee, and serve upon the Agency and operator, a proposal for decision within 45 days from the service of the complaint.
- b) Within 21 days after service of the proposal for decision, the Agency or the operator may file with the Director exceptions, proposed findings of fact, or a brief.
- c) Director's Decision
 - 1) The Director shall make a decision on the basis of the contested case record.
 - 2) ~~b)~~ If the operator does not request a hearing, the Director shall issue a decision within ~~90~~60 days after the service of the Complaint for Sanctions.
 - 3) If the operator requests a hearing, the Director shall issue a decision within 1 year after the service of the Complaint for Sanctions.
 - 4) ~~e)~~ If the Director determines a sanction is appropriate, the decision must state

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

the suspension or revocation period.

- 5)4) The Director shall give written notice of the decision and the reasons for the decision to the operator by certified mail.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.740 Ex Parte Communications

- a) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the hearing officer and the Director shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, including the Advisory Board, except upon notice and opportunity for all the parties to participate.
- b) Communications regarding procedure, including but not limited to format of pleadings, number of copies required, manner of service, status of proceedings and continuances, are not considered to be ex parte communications.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 681.745 Subpoena

- a) Issuance of Subpoenas. Upon written request by a party, the Hearing Officer will issue a subpoena for attendance of a witness or production of books, papers, documents or other tangible things at a hearing or deposition if the party shows good cause as to why the testimony and/or books, papers, documents or other tangible things cannot otherwise be obtained and states the reasons why the testimony and/or books, papers, documents or other tangible things are necessary and relevant.
- b) Witness and Mileage Fees. The cost of service and witness and mileage fees shall be borne by the person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois.
- c) Service and Contents. The person requesting a subpoena shall be responsible for its service. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the phone number and address of the person initiating its issuance and shall identify the person or evidence subpoenaed and the person to

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

whom, and the place, date and time at which, it is returnable.

- d) Petition to Quash or Modify. Within 5 days after service of a subpoena on any person, that person may file a petition to quash or modify the subpoena, stating reasons in support of the relief. Whenever a petition to quash a subpoena is properly filed under this Section, the petitioner shall not be required to respond to the subpoena until the petition has been ruled upon.
- e) Witness Attendance. Any witness subpoenaed for a deposition may be required to attend only in the county in which he or she resides or maintains an office address, or in any other place ordered by the Hearing Officer.

(Source: Added at 41 Ill. Reg. _____, effective _____)

SUBPART H: CERTIFICATE RENEWAL, RESTORATION AND REQUIRED TRAINING

Section 681.805 Certificate Renewal Application Form

- a) By May 31 of the year a certificate is due to expire, the Agency shall mail a renewal application form to the operator at the most recent address the Agency has on file for the operator.
- b) The renewal application form shall be completed by the operator and shall:
- 1) specify the current certificate's expiration date, fees due, training requirements for certificate renewal, and number of hours of completed training since the current certificate was issued;
 - 2) contain a statement signed by the operator certifying that all information provided in the renewal application form is true and complete; and
 - 3) be submitted to the Agency, with the \$10 renewal fee, ~~as~~ required by Section 681.110(d), ~~of this Part to the Agency~~ on or before July 1 ~~June 30~~ of the year in which the certificate expires.
- c) The Agency will not process ~~incomplete unsigned~~ renewal application forms or applications without the water supply operator's signature.
- d) In addition to any other law or regulation that may apply, falsification of a

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

renewal application form shall result in denial of certificate renewal and may result in certificate suspension or revocation.

- e) A grace period for the renewal application form and fees will be granted until August 1 of the year the certificate is due to expire before the restoration fee is assessed. No renewal shall be issued by the Agency after August 1.
- f) Failure to receive the renewal application form does not exempt a certified water supply operator from meeting the renewal deadline.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.810 Restoration of Expired Certificates

- a) An individual who fails to renew before August 1 of the expiration year, but whose certificate has been expired for less than 2 years, may have the certificate restored only upon payment of the \$10 restoration fee, ~~as~~ required by Section 681.110 ~~(e) of this Part~~, and a demonstration that the renewal training required by Section 681.815 ~~of this Part~~ has been completed.
- b) An individual seeking restoration of his or her expired certificate must also complete a renewal application form as required by Section 681.805 and pay the \$10 renewal fee.
- c) A restored certificate expires on the same date the certificate would have expired if it was timely renewed.
- d)e) An individual whose certificate has been expired for 2 or more years must retake the water supply operator examination of competency, reapply and obtain a passing score on an examination, and submit a new application for a Certificate of Competency in order to be certified as a water supply operator.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.820 Training Criteria

- a) The Agency will accept training for certificate renewal if the training directly relates to water distribution, water treatment, or the professional responsibilities of the operator.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Allowable training topics relating to potable water treatment and distribution include, but are not limited to:

- Coagulation and Flocculation
- Corrosion Control
- Demineralization
- Disinfection
- Distribution System
- Distribution System Facilities
- Drinking Water Permits, Laws, Rules and Regulations
- Drinking Water Related Computer Courses
- Electrical Maintenance
- Filtration
- Fluoridation
- Ground Water Protection
- Ground Water Treatment
- Instrumentation
- Iron and Manganese Control
- Laboratory Procedures
- Membrane Technology
- Process Waste Handling and Disposal
- Pumps and Hydraulics
- Reservoir Management and Intake Structures
- Reverse Osmosis
- Sampling and Operating Reports
- SCADA Training
- Sedimentation
- Surface Water Protection
- Surface Water Treatment
- Taste and Odor Control
- Trihalomethanes
- Water Quality
- Water Softening
- Water Sources & Treatment
- Water Storage Facilities
- Water Supply Math and Chemistry Calculations
- Water Supply Operation and Maintenance
- Wells

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 2) Allowable training topics relating to the professional responsibilities of the operator and safety include, but are not limited to:

Computer Workshops
Emergency Planning and Preparation
First Aid
Safety
Utility Administration Management

- b) Training Exclusions. Types of training activities that do not directly relate to water distribution, water treatment, or the professional responsibilities of the operator shall not be accepted as renewal training credit. The following are not considered training for the purpose of meeting the certificate renewal training requirements:
- 1) Entertainment or recreational activities;
 - 2) On the job work or apprenticeships;
 - 3) Personal self-improvement courses;
 - 4) Plant tours (unless drinking water related training is integrated into the tour);
 - 5) Portions of meetings and conferences when drinking water related training is not provided (i.e., business session, lunch, breaks, etc.);
 - 6) Time spent viewing conference/meeting exhibits; and
 - 7) Travel time to and from training activities.
- c) Training may be provided by any of the variety of organizations equipped to provide that training, such as colleges and universities, technical institutes, educational units of governmental or industrial agencies, professional operator organizations, and equipment suppliers and manufacturers. Training that meets the criteria, regardless of the location of the training or the location of the training provider, is allowed for renewal training credit. For example, drinking water related training from another state will be allowed for credit provided the criteria

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

is met. In-house training programs provided at drinking water supplies are also acceptable for training credit provided all training criteria are met and proof of training documentation is provided to the trainees.

- d) Acceptable training formats include classroom courses, teleconferences, courses offered via the Internet, workshops, seminars, correspondence courses, in-house training programs, and drinking water related training sessions at conferences/meetings of professional operator organizations.
- e) Training must be approved by the Agency or its designee. Training providers or sponsors must request approval of training from the Agency before the training is offered. A training approved by the Agency will be assigned an Agency course number.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.825 Calculation of Training Hours for Certificate Renewal

- a) One training hour shall equal 60 minutes of training ~~or 0.1 CEU~~.
- b) For the purpose of calculating actual classroom hours for renewal training credit, the following conversions should be used:
 - 1) 1 Semester Hour = 15 hours of training credit.
 - 2) 1 Quarter Hour = 10 hours of training credit.
- c) Credit will only be given when the water operator has obtained proof of attendance documentation from the training providers or sponsors.
- d) Credit will only be given for courses approved by the Agency or its designee.
- e) Training credit is also allowed for teachers or presenters of training for the first time a course is taught or a drinking water related presentation is made.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 681.835 Submission of Training Hours

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- a) Operators must submit to the Agency, prior to certification renewal, a record of completed training hours for renewal credit.
- b) The record of completed training hours must contain the following information for each completed training activity:
 - 1) Training provider name, including the organization and instructor;
 - 2) Name of course or training event;
 - 3) Agency assigned course number;
 - 4) Training description or course content summary;
 - ~~5) Drinking water related competencies developed or maintained;~~
 - ~~5)6) Location of training;~~
 - ~~6)7) Dates of training (beginning and ending); and~~
 - ~~7)8) Training hours completed.~~
- c) The Agency may prescribe a form for the written record of completed training and the manner of submission, including but not limited to electronic submission.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART J: CONTRACTUAL OPERATION

Section 681.1000 Required Contract Provisions

When a community water supply fulfills the certified operator requirement set forth in the Law and Section 681.215 ~~of this Part~~ by contracting the services of a properly qualified certified operator, the contract between the community water supply and the contract operator must delegate responsibility and authority for the operation of the community water supply to the contract operator. The contract must include the following:

- a) The parties involved, including names, addresses and phone numbers of each;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- b) The specific starting and expiration dates of the contract;
- c) The minimum number of visits the contract operator must make each week to the community water supply;
- d) The contract operator shall be responsible for submitting, in accordance with Board rules, consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results, such as corrosion control reports and monitoring results [415 ILCS 45/1.1];
- e) The duties and responsibilities of each party involved, including, at a minimum, the party responsible for:
 - 1) proper operation of the community water supply;
 - 2) compliance with all construction and operating permit requirements;
 - 3) compliance with all NPDES permit effluent requirements;
 - 4) compliance with this Subtitle F (Public Water Supplies), including but not limited to the following:
 - A) Design, Operation and Maintenance Criteria (35 Ill. Adm. Code 653);
 - B) Raw and Finished Water Quality and Quantity (35 Ill. Adm. Code 654);
 - C) Primary Drinking Water Standards (35 Ill. Adm. Code 611);
 - D) Permits (35 Ill. Adm. Code 652); and
 - E) Emergency operation requirements found in 35 Ill. Adm. Code 607.103;
 - 5) daily equipment checks;
 - 6) collection of required samples and submission of these samples to a certified laboratory;

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 7) maintaining booster pump stations and high service pumps;
- 8) maintaining spare parts inventory;
- 9) ~~maintaining and timely submitting to the Agency all required operating records and reports, including but not limited to:~~
 - A) ~~consumer confidence reports;~~
 - B) ~~drinking water compliance monitoring reports;~~
 - C) ~~discharge monitoring reports; and~~
 - D) ~~monthly operating reports;~~
- ~~9)10)~~ providing labor and materials for correcting any maintenance and operational problems;
- ~~10)11)~~ maintaining and implementing emergency operating plans;
- ~~11)12)~~ performing preventive maintenance on equipment as recommended by the manufacturer;
- ~~12)13)~~ performing routine operational control testing as recommended by the Agency;
- ~~13)14)~~ issuing public notices when required by 35 Ill. Adm. Code 653.403;
- ~~14)15)~~ issuing boil orders to the public and contacting the regional office and local health department whenever boil orders are issued; and
- ~~15)16)~~ responding to Agency requests for information or site visits;
- ~~f)e)~~ The signatures of the contract operator and the owner or official custodian of the community water supply.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Voter Registration Program
- 2) Code Citation: 89 Ill. Adm. Code 512
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
512.10	Amendment
512.20	Amendment
512.30	Amendment
- 4) Statutory Authority: Implementing the Department of Human Service Act [20 ILCS 1305] and the National Voter Registration Act of 1993 (52 USC §20501 – 20511) and Illinois Election Code [10 ILCS 5]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to clarify the voter registration provisions. This proposed rulemaking adds the definition for confidential office number to Section 512.10 Definitions. In addition, this proposed rulemaking clarifies that:
 - clients will be offered assistance in completing voter registration forms;
 - no statements will be made or actions taken to lead a client to believe that a decision to register or not to register will affect the availability of services or benefits provided;
 - clients of State-operated mental health facilities will be instructed to register with their last address prior to entering the mental health facility;
 - if the client indicates that he or she declines to apply to register, the client will be asked to sign the form or to affix his or her mark on the declaration form;
 - IDHS clients who are unable to register to vote or change their address at IDHS due to the traditional close of the registration deadline (28 days prior to an election) may utilize a grace period to register to vote pursuant to 10 ILCS 5/4-50. The grace period is from the close of registration for an election until and including the day of the election;
 - the completed declaration and registration forms will be retained by IDHS in a confidential manner separate from the client's IDHS file for a minimum of two years; and

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- the registration application forms will be sent in plain envelopes, with no indication that the mailing originated from an IDHS office, to the Illinois State Board of Elections in Springfield, Illinois.
- 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 proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
512.10	Amendment	40 Ill. Reg. 14012; October 14, 2016
512.20	Amendment	40 Ill. Reg. 14012; October 14, 2016
512.30	Amendment	40 Ill. Reg. 14012; October 14, 2016

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing 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

- 13) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 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 2016

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER h: MISCELLANEOUS PROGRAMSPART 512
VOTER REGISTRATION PROGRAM

Section	
512.10	Definitions
512.20	Opportunities for Voter Registration
512.30	Disposition of Voter Registration Forms

AUTHORITY: Implementing the Department of Human Service Act [20 ILCS 1305] and the National Voter Registration Act of 1993 (52 USC 20501 through 20511) and the Illinois Election Code [10 ILCS 5].

SOURCE: Adopted at 23 Ill. Reg. 7514, effective June 17, 1999; amended at 41 Ill. Reg. _____, effective _____.

Section 512.10 Definitions

For the purpose of this Part, the following terms shall have the following meanings:

Client – means any individual who will be at least 18 years of age on the day of the next election who is applying for, is determined or redetermined eligible for, or is being recertified or redetermined to be eligible for, or is receiving, ~~or is being recertified or redetermined to be eligible for~~ services for persons with disabilities or public assistance from the Illinois Department of Human Services (~~IDHS~~DHS). No person who has been legally convicted in this or another ~~state~~State or in any federal court of any crime, and is serving a sentence of confinement in any penal institution, ~~or who has been convicted and is serving a sentence of confinement in any penal institution,~~ shall vote, offer to vote, attempt to vote or be permitted to vote at any election until his or her release from confinement, and thus is not considered a client for the purposes of this Part.

Confidential Office Number – means a number assigned by a deputy registrar in charge of voter registration to each Voter Registration Application Transmittal form (R-25) that indicates which office sent the form without using an IDHS return address.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

Staff – means an individual who is employed by any ~~IDHS office~~~~DHS Office~~ or facility whose duties include contact with clients. ~~Staff;~~~~or~~ may include contractors that provide State-funded programs to provide services to persons with disabilities and/or provide public assistance services.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 512.20 Opportunities for Voter Registration

- a) In accordance with the National Voter Registration Act of 1993 (~~5242~~ USC 20501 through 20511~~§1973gg, et seq.~~), ~~staff~~~~Staff~~ are required to provide clients the opportunity to apply to register to vote and to assist clients, if requested, in the completion of voter registration applications ~~and~~~~or~~ declaration forms. Opportunities for application for voter registration~~Voter Registration~~ shall be provided at the time of application for services, annual review, recertification or reassessment of services.
- 1) Staff shall:
 - A) Inform the client of his or her ~~right~~~~rights~~ to execute or decline to execute a voter registration application.
 - B) Provide the client with a declaration form that asks if he or she would like the opportunity to apply to register to vote. Each client has the right to accept or decline the opportunity.
 - C) Provide to each client who does not decline to apply to register to vote the same degree of assistance with regard to the completion of the voter registration application form as is provided by the ~~staff~~~~office~~ with regard to the completion of ~~its~~~~IDHS'~~ own forms, unless the applicant refuses ~~that~~~~sueh~~ assistance.
 - D) Provide the client with a mail-in voter registration application when the client provides notification to ~~IDHS~~~~DHS~~ of a change of address and offer the client assistance in completing the form.
 - 2) Staff shall not:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- A) seek to influence a client's political preference;
 - B) display any political preference or party allegiance;
 - C) make any ~~statements~~statement or take any action to encourage or discourage an applicant from registering to vote; or
 - D) make any ~~statements~~statement or take any action to lead a client to believe that a decision to register or not to register will affect the availability of services or benefits provided.
- b) If the client indicates either by checking the appropriate box on the declaration form or verbally (if he or she cannot write) that he or she desires to apply to register to vote, ~~staff~~Staff shall assist the client in the completion of the voter registration application, if requested. Assistance shall include, but not be limited to, sign-language interpreters (for deaf and hard of hearing individuals), readers (for blind and visually impaired individuals), and a verbal explanation of the application, as appropriate. The declaration form shall be retained in accordance with Section 512.30.
- c) IDHS mental health facility~~Mental Health Facilities~~ staff may offer voter registration after admission in instances in which~~where~~ it may be clinically ill-advised to do so upon admission. Staff shall ask the client to sign the declaration form and shall retain the form in accordance with Section 512.30. A State-operated mental health facility is not recognized as a valid address for voter registration. Therefore, staff shall instruct clients of State-operated mental health facilities to register with their last address prior to entering the mental health facility.
- de) If the client indicates either by checking the appropriate box on the declaration form or verbally that he or she declines to apply to register, staff shall ask the individual to sign the form or to affix his or her mark on the form and shall retain the form in accordance with Section 512.30.
- ed) If the client does not check the appropriate box and does not communicate any choice, ~~staff~~Staff shall treat this as a declination. Staff shall; note that the client did not indicate a preference on the form, fill in the client's name if he or she does not and retain the form in accordance with Section 512.30.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- f) IDHS clients who are unable to register to vote or change their address at IDHS due to the traditional close of the registration deadline (28 days prior to an election) may utilize a grace period to register to vote pursuant to Section 4-50 of the Election Code [10 ILCS 5]. The grace period is from the normal close of registration until and including the day of the election.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 512.30 Disposition of Voter Registration Forms

- a) The completed declaration and registration forms~~form~~ shall be retained by IDHS~~DHS~~ in a confidential manner separate from the client's IDHS~~DHS~~ file for a minimum of two~~2~~ years.
- b) If the client has chosen to apply to register to vote, and completes the registration application prescribed by the Illinois State Board of Elections, the application shall be forwarded to the Illinois State Board of Elections (ISBE)~~appropriate local election authority~~ in a manner that protects~~to protect~~ the confidentiality of the client.
- c) Staff shall submit completed voter registration applications to ISBE~~the local election authority~~ as follows:
- 1) within 10 days after the date of receipt if received by IDHS~~five DHS 5~~ or more days prior to the close of voter registration; or
 - 2) within five~~5~~ days if received five~~5~~ days or less prior to~~from~~ the close of voter registration.
- d) Registration application forms shall be submitted in plain envelopes with no indication that the mailing originated from an IDHS office. They shall be addressed to the Illinois State Board of Elections, ATTN: Voter Registration, 2329 S. MacArthur Blvd., Springfield IL 62704. The return address shall read: State Board of Elections, 2329 S. MacArthur Blvd., Springfield IL 62704. The submission shall include a Voter Registration Application Transmittal form R-25 with the confidential office number, but no other indication of from where the mailing originated.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

1) Heading of the Part: Achieving a Better Life Experience (ABLE) Account Program

2) Code Citation: 74 Ill. Adm. Code 722

3) Section Numbers: Proposed Actions:

722.100	New Section
722.110	New Section
722.120	New Section
722.200	New Section
722.300	New Section
722.310	New Section
722.320	New Section
722.330	New Section
722.340	New Section
722.350	New Section
722.360	New Section
722.370	New Section
722.380	New Section
722.400	New Section
722.410	New Section
722.420	New Section
722.500	New Section
722.510	New Section
722.520	New Section
722.530	New Section
722.540	New Section
722.550	New Section
722.560	New Section
722.570	New Section
722.600	New Section
722.610	New Section
722.620	New Section
722.630	New Section
722.700	New Section
722.710	New Section
722.720	New Section
722.730	New Section
722.740	New Section
722.800	New Section

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

- 4) Statutory Authority: 15 ILCS 505/16.6
- 5) A Complete Description of the Subjects and Issues Involved: The Achieving a Better Life Experience (ABLE) Account Program [15 ILCS 505/16.6], which was signed into law on July 27, 2015, established a savings program to be administered by the Treasurer's Office for the purpose of providing persons with blindness or disabilities the option to invest in tax-advantaged savings vehicles for disability-related expenses. The rules adopted in this Part will provide clarification for the implementation and administration of the program by the Treasurer's Office.
- 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(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:

G. Allen Mayer
Deputy Legal Counsel
Illinois State Treasurer
219 State House
Springfield IL 62706

217/557-2673
fax: 217/785-2777
e-mail: AMayer@illinoistreasurer.gov

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses 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 2017

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

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

TITLE 74: PUBLIC FINANCE
CHAPTER XVI: TREASURER

PART 722

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNT PROGRAM

SUBPART A: INTRODUCTION AND PURPOSE OF PROGRAM

Section

- 722.100 Establishment of Program
- 722.110 Purpose of Program
- 722.120 Interstate Agreement or Compact

SUBPART B: DEFINITIONS

Section

- 722.200 Definitions

SUBPART C: ADMINISTRATION

Section

- 722.300 Responsibilities of the Treasurer
- 722.310 Investment Policy
- 722.320 Account Administration/Administrator
- 722.330 Recordkeeping and Recordkeeping Responsibilities
- 722.340 Enrollment and Fees
- 722.350 ABLE Administrative Fund
- 722.360 Marketing and Promotion
- 722.370 Contracting States
- 722.380 Forms

SUBPART D: PARTICIPATION AND ENROLLMENT IN THE PROGRAM

Section

- 722.400 Eligibility
- 722.410 Designated Representative
- 722.420 Enrollment Application

SUBPART E: ACCOUNTS, INVESTMENTS AND STATEMENTS

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

Section	
722.500	ABLE Accounts
722.510	Allocation of Investment Earnings or Losses
722.520	Limits on Investment and Directions
722.530	Administrative Expenses
722.540	Participant Statements
722.550	Conversions and Rollovers
722.560	Contributions
722.570	Aggregate Account Balance Limits

SUBPART F: WITHDRAWALS OR DISTRIBUTIONS

Section	
722.600	Qualified Withdrawals/Distributions
722.610	Qualified Disability Expense
722.620	Nonqualified Withdrawals
722.630	Federal Reporting Requirements

SUBPART G: MISCELLANEOUS

Section	
722.700	Death of Beneficiary
722.710	Missing Persons/Abandonment
722.720	Nonassignability
722.730	Website
722.740	Excess/Mistaken Contributions

SUBPART H: AMENDMENT OF RULES

Section	
722.800	Amendment of Rules

AUTHORITY: Implementing and authorized by Section 16.6 of the State Treasurer Act [15 ILCS 505].

SOURCE: Adopted at 41 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION AND PURPOSE OF PROGRAM

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

Section 722.100 Establishment of Program

This Part governs the Achieving a Better Life Experience (ABLE) Account Program created by Section 16.6 of the State Treasurer Act [15 ILCS 505].

Section 722.110 Purpose of Program

- a) The purpose of the ABLE Program is to encourage and assist individuals and families in saving private funds to support individuals with blindness or disabilities in order to maintain health, independence and quality of life, and to provide secure funding for disability-related expenses that will supplement, but not supplant, benefits provided through private insurance and federal and state medical and disability insurance.
- b) The ABLE Program is established pursuant to the federal ABLE Act of 2014 (26 USC 529A), which amended the Internal Revenue Code of 1986 to allow states to establish tax-exempt savings accounts for individuals with blindness or disabilities if those savings are used to cover qualified disability expenses.

Section 722.120 Interstate Agreement or Compact

The Treasurer may enter into an interstate agreement for joint ABLE-related services, in order to achieve better programming and higher economies of scale in investment options.

SUBPART B: DEFINITIONS

Section 722.200 Definition of Terms

The following definitions shall apply to this Part:

"ABLE" means the federal Achieving a Better Life Experience Act of 2014 (26 USC 529A, as amended) that creates state-level tax-advantaged savings programs to assist persons with blindness or disability.

"ABLE Program" or "Program" means the Illinois ABLE Account Program administered by the State Treasurer under Section 16.6 of the Act.

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

"Act" means the State Treasurer Act, Section 16.6 of which which establishes the Illinois ABLE Program.

"Account" means an individual investment account established and maintained in the ABLE Program.

"Account Administrator" means the person selected by the State Treasurer to administer the daily operations of the ABLE account plan and provide marketing, recordkeeping, investment management, and other services for the plan. [15 ILCS 505/16.6(a)]

"Account Beneficiary" means the account owner whose qualified expenses are expected to be paid from an account.

"Administrative Expenses" means all expenses associated with the implementation and administration of the ABLE Program, including fees payable to third parties providing services related to the plan.

"Administrative Fund" means the Illinois ABLE Accounts Administrative Fund created in Section 5.866 of the State Finance Act [30 ILCS 105].

"Aggregate Account Balance" means the amount in an account on a particular date or the fair market value of an account on a particular date. [15 ILCS 505/16.6(a)]

"Applicant" means any person who is in the process of applying to open an account in the plan.

"Board" means the Illinois State Board of Investment. [15 ILCS 505/16.6(a)]

"Code" means the Internal Revenue Code of 1986, as amended (26 USC 1 et seq.).

"Contracting State" means a state without a qualified ABLE program that has entered into a contract with Illinois to provide residents of the contracting state access to a qualified ABLE program. [15 ILCS 505/16.6(a)]

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

"County Public Guardian" means a designated representative authorized by the State to act as a designated representative for an account beneficiary that may not have a designated representative.

"Designated Representative" means a person who is authorized to act on behalf of an account beneficiary.

"Disability Certification" means the certification described in Section 529A of the Code, Section 01130.740 of the Social Security Administration's Program Operations Manual System, or IRS Notice 2015-81.

"Earnings" means the aggregate total of all dividends and interest income received by the ABLE savings account plan at any time following the plan's commencement. The aggregate total of dividends and interest income shall be reduced by the aggregate total of administrative expenses paid out of the pool at any time following the commencement of the plan. Earnings shall be determined without regard to realized or unrealized capital gains and losses incurred by the plan.

"Eligible Individual" has the meaning given to that term under Section 529A of the Code. [15 ILCS 505/16.6(a)]

"FDIC" means the Federal Deposit Insurance Corporation.

"IRS" means the Internal Revenue Service.

"Participation Agreement" means an agreement to participate in the ABLE account plan between an account owner and the State, through its agencies and the State Treasurer. [15 ILCS 505/16.6(a)]

"Plan" means the ABLE savings account plan authorized by Section 16.6 of the Act.

"Qualified Beneficiary" means an individual who is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, or who has a "disability certification" filed with the Secretary and was disabled before age 26.

"Qualified Disability Expenses" means expenses that are qualified under Section 529A of the Code.

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

"Qualified Withdrawal" or "Qualified Distribution" means a withdrawal from an ABLE account to pay the qualified disability expenses of the beneficiary of the account. [15 ILCS 505/16.6(a)]

"Secretary" means the U.S. Secretary of the Treasury.

"SSA" means the Social Security Administration.

"Treasurer" means the duly elected Treasurer of the State of Illinois or his or her designee or designees, which may include one or more third party service providers.

SUBPART C: ADMINISTRATION

Section 722.300 Responsibilities of the Treasurer

The Treasurer is the State administrator and program manager of the ABLE Program. The Treasurer's duties include, but are not limited to: accepting and processing applications, maintaining account records, making payments, and undertaking any other tasks necessary to administer the Program, including the appointment of an account administrator. The Treasurer may contract with one or more third parties to carry out some or all of these administrative duties. The Treasurer is also responsible for establishing fees to be imposed on participants to recover the expenses of administration, recordkeeping and investment management.

Section 722.310 Investment Policy

- a) The investment policy is a written statement describing the risk management and oversight program and should be designed to:
 - 1) ensure that an effective risk management system is in place to monitor the risk levels of the ABLE Program;
 - 2) ensure that the risks taken are prudent and properly managed;
 - e) provide an integrated process for overall risk management;
 - 4) assess investment returns; and

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

- 5) assess risks to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards.
- b) The investment policy shall be reviewed annually.

Section 722.320 Account Administration/Administrator

The account administrator is responsible for the day-to-day oversight and management of the ABLE Program, including coordinating with any third party investment managers or recordkeepers to ensure the safekeeping of the Program accounts. The account administrator is responsible for annually preparing and adopting a written statement of investment policy that includes a risk management and oversight program.

Section 722.330 Recordkeeping and Recordkeeping Responsibilities

The Treasurer may contract with a third party provider to manage recordkeeping for the ABLE Program. The recordkeeper shall provide all services needed for the effective operation of the Program in accordance with all applicable federal and State laws and regulations. These services shall include, but are not limited to:

- a) developing forms and any operating documents;
- b) processing enrollments;
- c) maintaining beneficiary accounts as outlined in ABLE;
- d) receiving contributions;
- e) blocking receipt of excess contributions;
- f) disbursing funds;
- g) providing account beneficiaries with account information, transaction confirmations and account statements;
- h) complying with applicable SSA, banking, tax and security law requirements;
- i) filing required reports and forms with federal agencies; and

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

- j) providing fraud prevention.

Section 722.340 Enrollment and Fees

- a) An applicant may apply, on forms prescribed by the Treasurer, to open an ABLE account. A qualified beneficiary may have only one account. The Treasurer may impose a nonrefundable application fee.
- b) The Treasurer shall establish fees to be imposed on participants to cover the expenses of administration, recordkeeping and investment management. The Treasurer shall use his or her best efforts to keep these fees as low as possible, consistent with efficient administration.

Section 722.350 ABLE Administrative Fund

The Illinois ABLE Accounts Administrative Fund is created as a nonappropriated trust fund in the State treasury. The State Treasurer shall use moneys in the Administrative Fund to pay for administrative expenses he or she incurs in the performance of his or her duties under this Part. The State Treasurer shall use moneys in the Administrative Fund to cover administrative expenses incurred, as provided for in Section 530. The Administrative Fund may receive any grants or other moneys designated for administrative purposes from the State, or any unit of federal, state, or local government, or any other person, firm, partnership, or corporation. Any interest earnings that are attributable to moneys in the Administrative Fund must be deposited into the Administrative Fund. Any fees established by the State Treasurer to recover the costs of administration, recordkeeping, and investment management shall be deposited into the Administrative Fund. [15 ILCS 505/16.6(b)]

Section 722.360 Marketing and Promotion

The Treasurer is responsible for the marketing and promotion of the Program and may hire a third party contractor to assist with these efforts. The Treasurer shall not use the Administrative Fund to cover marketing expenses associated with the Program.

Section 722.370 Contracting States

The Treasurer may elect to become a contracting state for the purpose of managing another state's ABLE program.

Section 722.380 Forms

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

The Treasurer may use forms provided or promulgated by the SSA, the IRS, or other federal agencies pursuant to ABLE. The Treasurer may also promulgate its own forms reasonably necessary to implement the ABLE Program.

SUBPART D: PARTICIPATION AND ENROLLMENT IN THE PROGRAM

Section 722.400 Eligibility

Under section 529A(e)(1) of the Code, *an individual is an eligible individual for a taxable year if, during that taxable year:*

- a) *the individual is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and the blindness or disability occurred before the date on which the individual attained age 26; or*
- b) *a disability certification with respect to the individual is filed with the Secretary for that taxable year.*

Section 722.410 Designated Representative

- a) *An account owner is authorized to act on his or her own behalf unless the account owner is a minor or the account owner has been adjudicated to have a disability so that a guardian has been appointed.*
- b) The Treasurer shall recognize a person as a designated representative if that person has been appointed by a court of competent jurisdiction, whether in Illinois or in another state.
- c) *The Treasurer shall recognize a person as a designated representative without appointment by a court in the following order of priority:*
 - 1) *The account owner's plenary guardian of the estate, or the account owner's limited guardian of financial or contractual matters. Any guardian acting in this capacity shall not be required to seek court approval for any ABLE qualified distributions.*
 - 2) *The agent named by the account owner in a property power of attorney recognized as a statutory short form power of attorney for property. The*

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

statutory short form power of attorney for property may be pursuant to the Illinois Power of Attorney Act [755 ILCS 45] or the law of the state of residence of the account owner.

- 3) The *individual or entity that the account owner designates in writing*, signed and attested in the manner prescribed by the Probate Act of 1975 [755 ILCS 5] for the execution of a will.
- d) *A designated representative acts in a fiduciary capacity to the account owner.* [15 ILCS 105/16/6(a)]
- e) A person seeking to be recognized by the Treasurer as a designated representative shall provide sufficient evidence to the Treasurer to establish by a preponderance of the evidence that he or she qualifies as a designated representative under this Section. A copy of a valid court order naming that person as a guardian or a conservator consistent with the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act [755 ILCS 8] shall be prima facie evidence. Other forms of evidence may be submitted to establish qualification under this Section.
- f) If a designated representative is a nonresident of Illinois, the designated representative shall authorize a resident agent to accept service of process, notice or demand required or permitted by law to be served upon the designated representative in Illinois.

Section 722.420 Enrollment Application

- a) The application shall require the applicant to provide the following information:
 - 1) The name, address, social security number and birth date of the account owner;
 - 2) The name, address and social security number of the designated representative, if the account beneficiary is not the applicant;
 - 3) Certification by the applicant that the applicant understands the maximum account value and the consequences for excess contributions and understands how values exceeding the amount designated under section 103 of ABLER may affect the applicant's resources for determining the applicant's eligibility for programs administered by the SSA;

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

- 4) Any additional information needed to clarify the application when the information submitted in the application is unclear or insufficient, or when further information is required by federal regulations and/or guidance.
- b) Completed applications shall be submitted as specified on the application form.
- c) Applications that are incomplete or fail to meet the requirements established by the Treasurer in an effort to comply with section 529A of the Internal Revenue Code or this Part shall be rejected.

SUBPART E: ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 722.500 ABLE Accounts

ABLE accounts are investment savings accounts into which the account beneficiary deposits funds that, in turn, are invested in marketplace-based investment options such as FDIC insured interest bearing accounts. Earnings on the investments are tax-free as long as withdrawals are used to pay qualified disability expenses. A separate account will be established for each account beneficiary.

Section 722.510 Allocation of Investment Earnings or Losses

Investment earnings in excess of the administrative expenses of the pool and all monies collected by the pool as penalties as a result of withdrawals that are not used to pay qualified expenses, after the payment of expenses:

- a) shall be credited or paid monthly to participants in the pool in a manner that equitably reflects:
 - 1) the differing amounts of their respective investments in the pool; and
 - 2) the differing periods of time for which those amounts were in the custody of the pool; and
- b) shall be allocated among the pool's underlying investment portfolios in a manner equitably determined by the Treasurer.

Section 722.520 Limits on Investment and Directions

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

- a) An account beneficiary under the ABLE Program shall, no more than two times in any calendar year, direct the investment of any contributions to the Program, along with any earnings on those investments.
- b) To the extent allowed under federal guidelines, the Treasurer may, from time to time, establish a default investment allocation for accounts under the Program.
- c) *The assets of ABLE accounts and their income may not be used as security for a loan. All assets of the plan, including any contributions to accounts, are held in trust for the exclusive benefit of the account owner and shall be considered spendthrift accounts exempt from all of the owner's creditors. [15 ILCS 505/16.6(d)]*

Section 722.530 Administrative Expenses

- a) The administrative expenses of the ABLE Program may be paid from the Administrative Fund.
- b) Administrative expenses may be paid from fees established pursuant to Section 340. The fees may be deducted from the principal and earnings of each account. Administrative expenses shall be allocated among the pool's underlying investment portfolios in an equitable manner determined by the Treasurer. Investment earnings in excess of the administrative expenses shall be allocated as provided for in Section 510.
- c) *Subject to appropriation, the State Treasurer may pay administrative costs associated with the creation and management of the plan until sufficient assets are available in the Administrative Fund for that purpose. [15 ILCS 505/16.6(b)]*
- d) The Treasurer may permit a third party service provider to provide compensation to participating financial institutions or other financial services providers that promote the pool to their customers, provided that *the cost of these promotional efforts shall not be funded with fees imposed on participants by the State Treasurer. [15 ILCS 505/16.6(b)]*
- e) Investment expenses, such as the internal fees and expenses of an investment fund in which assets of the pool are invested and other similar expenses, shall not be considered administrative expenses.

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

Section 722.540 Participant Statements

Account statements shall be provided to account beneficiaries and designated representatives. The account statements may be sent via U.S. mail and/or provided electronically via website access or e-mail, as selected by the account beneficiary or designated representative. Account statements may also be provided to other individuals authorized to receive that information under the Electronic Signatures in Global and National Commerce Act (15 USC 96 et seq.) and the Truth in Lending Act (15 USC 1601 et seq.).

Section 722.550 Conversions and Rollovers

The Treasurer shall develop processes through which an account beneficiary or designated beneficiary may roll over an account from the Illinois ABLE Program to a different state's ABLE program, for either the same qualified beneficiary or an allowable new qualified beneficiary. The Illinois ABLE Program may receive rollovers from other states' ABLE programs. Rollover processes shall conform to any federal regulations or official guidance.

Section 722.560 Contributions

- a) Any person may make contributions to an ABLE account after the account is opened, subject to the limitations imposed by section 529A(b)(2)(B) of the Code and any rules adopted by the Secretary.
- b) Annual contributions are limited to the amount excluded from the federal gift tax under federal law.

Section 722.570 Aggregate Account Balance Limits

The ABLE Program shall provide adequate safeguards to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State under section 529(b)(6) of the Code. For purposes of this Section, aggregate contributions include contributions under any prior qualified ABLE program of any state or agency or instrumentality of either.

SUBPART F: WITHDRAWALS OR DISTRIBUTIONS

Section 722.600 Qualified Withdrawals/Distributions

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

A qualified withdrawal/distribution is a withdrawal or a distribution from an ABLE account to pay the qualified disability expenses of the beneficiary of the account.

Section 722.610 Qualified Disability Expense

Under section 529A(e)(5) of the Code, qualified disabilities expenses are expenses related to the eligible individual's blindness or disability that are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses:

- a) education;
- b) housing;
- c) transportation;
- d) employment training and support;
- e) assistive technology and personal support services;
- f) health, prevention and wellness;
- g) financial management and administrative services;
- h) legal fees;
- i) expenses for oversight and monitoring;
- j) funeral and burial expenses; and
- k) other expenses approved by the Secretary under federal regulations and/or guidance.

Section 722.620 Nonqualified Withdrawals

- a) If a withdrawal or distribution is not authorized under Section 722.600 and is not subject to an additional tax assessed by the IRS, the withdrawal or distribution shall be a nonqualified withdrawal under this Part. The Treasurer shall assess a penalty equal to the earnings portion of a nonqualified withdrawal. The calculation of the portion of the nonqualified withdrawal that constitutes earnings

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

subject to this penalty shall be in accordance with section 529A of the Code.

- b) This Section shall not apply if the payment or distribution is made to a beneficiary (or to the estate of the account beneficiary) on or after the death of the account beneficiary.

Section 722.630 Federal Reporting Requirements

The Program will comply with all federal reporting requirements. The Treasurer will compile or cause to be compiled the needed information to complete any reports.

SUBPART G: MISCELLANEOUS

Section 722.700 Death of Beneficiary

Upon the death of the designated beneficiary, all amounts remaining in the qualified account not in excess of the amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account, net of any premiums paid from the account or paid by or on behalf of the beneficiary to a Medicaid Buy-In program under any state Medicaid plan established under title XIX of the Social Security Act, shall be distributed to the state that made the payments, upon filing of a claim for payment by that state.

Section 722.710 Missing Persons/Abandonment

An ABLE account will be presumed abandoned according to the unclaimed property law of the state of the last known address of the account beneficiary. If the last known address of the account beneficiary is in Illinois, the provisions of the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025] shall apply. If there is no last known address of the account beneficiary in the records of the Treasurer, pursuant to federal common law the provisions of the Illinois Uniform Disposition of Unclaimed Property Act shall apply.

Section 722.720 Nonassignability

The contract entered into between the Treasurer and an account beneficiary under the Program, and the benefits, proceeds or payments under the Program cannot be sold, assigned, pledged, commuted, transferred or otherwise conveyed by a vendor, state agency or account beneficiary. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Treasurer.

OFFICE OF THE TREASURER

NOTICE OF PROPOSED RULES

Section 722.730 Website

Information regarding the ABLE program is available on the Treasurer's website at www.illinoistreasurer.gov (or any successor website).

Section 722.740 Excess/Mistaken Contributions

To the extent allowed under federal law, if any contribution or any portion of a contribution is made to the Program because of a good faith mistake of fact, the Treasurer shall make a good faith effort to return the amount of the mistaken contribution, adjusted for any income or loss in value, if any, resulting from the good faith mistake. Tax consequences are the responsibility of the person who made the excess or mistaken contributions.

SUBPART H: AMENDMENT OF RULES

Section 722.800 Amendment of Rules

Notice of any proposed substantive amendment to this Part shall be provided to all account beneficiaries and designated representatives prior to adoption. Notice may be provided by e-mail or U.S. mail. The notice need not include a full copy of the proposed amendments. However, a full copy of the proposed amendments shall be posted on the Treasurer's website (www.illinoistreasurer.gov (or any successor website)) and a paper copy shall be provided upon request by any interested person. Any amendment to this Part shall apply only to contributions made after the adoption of the amendment. *Amendments to this Part automatically amend the participation agreement. Any amendments to the operating procedures and policies of the plan shall automatically amend the participation agreement after adoption by the Treasurer.* [15 ILCS 505/16.6(d)]

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1600.140	Amendment
1600.550	Amendment
1600.605	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking seeks to amend Sections 1600.140, 1600.550 and 1600.605. This rulemaking proposes adding a SIMPLE IRA clarification to 1600.140, adds a vacation payment and disability benefit commencement section and further clarifies 1600.605 to further define what documents SURS may accept as evidence of a Consent to Issuance of QILDRO.
- 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.
- 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:

Albert J. Lee, Associate General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

217/378-8861

- 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 2016

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement
- 1600.140 Compliance with the Internal Revenue Code
- 1600.145 Compliance with Final 415 Treasury Regulations
- 1600.150 Group Trust Provisions

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Earnings Subject to Withholding and Crediting
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%
- 1600.275 Employer Contributions for Employing Affected Annuitants

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: SURVIVORS AND BENEFICIARIES

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure (Renumbered)

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

SUBPART E: [DISABILITY CLAIMS AND](#) ADMINISTRATIVE REVIEW

Section

- 1600.500 Administrative Staff Determinations and Rules for Appeal – Nature and Requirements of Formal Hearings
- 1600.510 Employer-Related Determinations and Rules for Appeal
- 1600.550 Disability Claims Procedure

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

Section

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Casting Votes
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. 8437, effective June 3, 2016; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1600.140 Compliance with the Internal Revenue Code

- a) Purpose. This Section is intended to implement qualification requirements under IRC section 401(a) as applicable to governmental plans within the meaning of IRC section 414(d). The System is intended to be a qualified governmental plan under the meaning of those IRC provisions.
- b) Exclusive Benefit Rule and Nonreversion of Trust Assets. Prior to the satisfaction of all liabilities to participants or their beneficiaries, no part of the corpus or income of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the System's participants or their beneficiaries. No part of the System's assets may revert to the State of Illinois or any employer except in the case of a good faith mistake of fact as permitted by [IRS Revenue Ruling 91-4, 1991-1 C.B. 57](#).
- c) Nonforfeitability. Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of each participant to benefits accrued to the date of the termination or discontinuance are nonforfeitable.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- d) USERRA. The provisions of Code Section 1-118 (concerning veterans' rights) shall be effective with respect to the System beginning December 12, 1994.
- e) Required Minimum Distributions. The provisions of Code Section 1-116.1 (concerning minimum required distributions) shall be effective with respect to the System beginning January 1, 1987. The System shall pay all benefits in accordance with a reasonable good faith interpretation of the requirements of IRC section 401(a)(9).
- f) Federal Contribution and Benefit Limitations. Pursuant to Code Section 1-116, the System shall comply with the applicable contribution and benefit limitations imposed by IRC section 415 for limitation years beginning on or after January 1, 1976.
- g) Mortality Tables and Interest Rates. The mortality tables and interest rates adopted by the Board of Trustees of the System from time to time in accordance with Code Sections 15-124 and 15-125 shall apply to the System as though those provisions were fully set forth in Article 15 of the Code. This subsection (g) applies beginning July 1, 1963.
- h) Direct Transfer of Eligible Rollover Distributions. For distributions made on or after January 1, 1993, the System shall implement Code Section 1-106(b) (concerning direct rollovers) in accordance with IRC section 401(a)(31), as follows:
 - 1) If a distributee becomes entitled to an eligible rollover distribution, the distributee may elect to have the distribution, or any portion of the distribution, paid directly to an eligible retirement plan specified by the distributee.
 - 2) The election made pursuant to this Section shall be in accordance with the terms and conditions established by the Board.
 - 3) Upon exercise of the election by a distributee pursuant to this subsection (h), the distribution from the System of the amount designated by the distributee shall be made in the form of a direct transfer to the specified eligible retirement plan.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 4) For purpose of this subsection (h), "distributee" means a member, a surviving spouse, or a former spouse under a domestic relations order that is treated as a qualified domestic relations order to the extent provided in IRC section 414(p)(11). For plan years beginning on or after January 1, 2010, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.
- 5) Eligible Rollover Distribution
- A) For purposes of this subsection (h), "eligible rollover distribution" means a distribution from the retirement fund that constitutes an eligible rollover distribution within the meaning of IRC section 401(a)(31)(D), i.e., any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
- i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made:
 - for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary; or
 - for a specified period of 10 years or more;
 - ii) any distribution to the extent the distribution is required under IRC section 401(a)(9);
 - iii) the portion of any distribution that is not includible in gross income; or
 - iv) any distribution that is reasonably expected to total less than \$200 during the year.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- B) Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible distribution merely because a portion consists of after-tax contributions that are not includible in gross income. However, that portion may be transferred only:
- i) to an individual retirement account or annuity described in IRC section 408(a) or (b) or to a qualified defined contribution plan described in IRC section 401(a) that agrees to separately account for amounts so transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;
 - ii) on or after January 1, 2007, to a qualified defined benefit plan described in IRC section 401(a) or to an annuity contract described in IRC section 403(b) that agrees to separately account for amounts transferred (and earnings on those amounts), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible; or
 - iii) on or after January 1, 2008, to a Roth IRA described in IRC section 408A.
- 6) For purposes of this subsection (h), "eligible retirement plan" means a plan that constitutes an eligible retirement plan within the meaning of IRC section 401(a)(31)(E), the terms of which permit the acceptance of rollover distribution and is limited to the following:
- A) an individual retirement account described in IRC section 408(a);
 - B) an individual retirement annuity described in IRC section 408(b);
 - C) an annuity plan described in IRC section 403(a);
 - D) a qualified trust described in IRC section 401(a);

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- E) effective January 1, 2002, an annuity contract described in IRC section 403(b);
 - F) effective January 1, 2002, an eligible deferred compensation plan described in IRC section 457(b) that is maintained by an eligible employer described in IRC section 457(e)(1)(A) that agrees to separately account for amounts transferred into that plan from the System; ~~or~~
 - G) effective January 1, 2008, a Roth IRA described in IRC section 408A; ~~and~~
 - H) effective December 19, 2015, a SIMPLE IRA described in IRC section 408(p)(1), provided that the rollover contribution is made after the 2-year period described in IRC section 72(t)(6).
- i) Qualified Illinois Domestic Relations Orders. If benefits are payable pursuant to a QILDRO that satisfies the requirements of "domestic relations order" as defined in IRC section 414(p), then the applicable requirements of IRC section 414(p) shall be followed by the System.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW**Section 1600.550 Disability Claims Procedure**

- a) Pursuant to Code Section 15-150 ~~of the Code~~, a participant may be granted a disability benefit if, while a participating employee, he or she becomes physically or mentally incapacitated and unable to perform the duties of his or her assigned position for any period exceeding 60 consecutive calendar days and the employee had completed 2 years of service at the time of disability, unless the disability is a result of an accident. An employee shall be considered disabled only during the period for which the Board determines, based upon the evidence listed in this Section, that the employee is unable to reasonably perform the duties of his or her assigned position as a result of a physical or mental disability. This determination shall be based upon:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) a written certificate from one or more licensed and practicing physicians appointed by or acceptable to the Board, stating that the employee is disabled and unable to reasonably perform the duties of his or her assigned position;
 - 2) a written certificate from the employer stating that the employee is unable to perform the duties of his or her assigned position; and
 - 3) any other medical examinations, hospital records, laboratory results, or other information necessary for determining the employment capacity and condition of the employee.
- b) Application Filing Requirements
- 1) An application for disability benefits must include the certifications described in subsections (a)(1) and (a)(2), and supporting documentation described in subsection (a)(3), all as explained in more detail in this Section, for each disabling condition as well as for the entire period of disability.
 - 2) The application must be filed within one calendar year after the date on which the disability occurred. This limitation may be waived upon a showing of good cause, including, but not limited to, circumstances in which the applicant was under some physical, mental or medical infirmity or legal status that prevented the applicant from filing within the time period.
- c) Certification By Physicians. For purposes of subsection (a)(1), the following shall apply:
- 1) Physicians acceptable to the Board are attending physicians, physicians designated by the participant and physicians to whom the participant was referred by the attending or designated physician. Physicians appointed by SURS staff to examine the participant are deemed to be physicians appointed by the Board. The physician must be licensed to practice and be currently practicing in the field of expertise related to the underlying physical or mental condition for which disability benefits are sought.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 2) The certification must be signed by a physician described in subsection (c)(1) or an authorized representative of the physician and must state the following:
 - A) the medical diagnosis of the physical or mental condition;
 - B) the prognosis of the physical or mental condition;
 - C) the physical or mental limitations to which the participant should adhere; and
 - D) that the participant is disabled and is unable to reasonably perform the duties of his or her assigned position as a result of the physical or mental disability.

- 3) The certification must be accompanied by a report containing the following:
 - A) the date of examination;
 - B) the medical history of the participant;
 - C) the results of any diagnostic tests used;
 - D) the diagnosis of the physical or mental condition;
 - E) the plan of treatment for the physical or mental condition and prognosis in response to the treatment plan;
 - F) an evaluation of the physical or mental condition as it bears upon the participant's ability to reasonably perform the duties of his or her assigned position; and
 - G) any existing documentation of objective medically demonstrable anatomical, physiological or psychological abnormalities manifested as test results or laboratory findings apart from self-reported symptoms.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- d) Certification by Employers. For purposes of subsection (a)(2), the certification must be signed by an officer authorized by the employer and must state the following:
- 1) the physical or mental performance requirements for the reasonable performance of the participant's assigned position;
 - 2) whether the participant is able to satisfy each physical or mental performance requirement for the reasonable performance of his or her assigned position to the best of the employer's knowledge or belief and the reason for that knowledge or belief; and
 - 3) whether the participant is able to reasonably perform the duties of his or her assigned position based on the provisions of subsections (d)(1) and (d)(2).
- e) Determination of Disability. If the participant establishes, by a ~~preponderance~~preponderance of the evidence, that he or she is physically or mentally disabled and unable to perform the duties of his or her assigned position as a result of the disability, the participant shall be determined eligible for disability benefits under Section 15-150 of the Code.
- 1) SURS staff shall determine whether certifications made under subsections (a)(1) and (a)(2) and supporting documentation described in subsection (a)(3) establish eligibility for disability benefits.
 - 2) At the discretion of SURS staff, the participant may be required to submit to additional examinations by staff appointed physicians or specialists to aid in the determination process.
 - 3) Physical or mental conditions resulting from self-inflicted injuries, substance abuse, or any act for which the participant was convicted of a misdemeanor or felony are not the result of an accident for purposes of Code Section 15-150 ~~of the Code~~.
- f) Subsequent Re-examination of Disabled Participants
- 1) SURS staff shall secure from one or more physicians, periodically, re-evaluation reports concerning the continued disability of the participant.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

The date of re-evaluation shall be determined by SURS staff on the basis of the medical reports received previously, the nature of the disability, and other relevant information.

- 2) In the re-evaluation of disability claims, the examining physician shall be the attending physician or the physician designated by the participant, but, if the nature of the disability or other circumstances justifies the appointment of someone other than the participant's attending physician or designated physician as the examining physician, SURS staff shall make the appointment. All other procedures that may be applicable in processing the initial claim for disability benefits shall be followed in re-evaluation of the claim.
- g) Release of Medical Information. The participant may be required to authorize the release of all medical or other information related to the disability claim, including but not limited to medical reports, hospital records, Department of Employment Security earnings statements, income tax records, unemployment records, and any record deemed necessary to the administration of the disability claim. The failure of the participant to submit to a re-evaluation examination or a treatment plan, to produce records, or to approve release of information required may result in the suspension of disability benefit payments.
- h) Vacation Payments and Disability Benefit Commencement. If an employee receives payment for unused vacation leave accrued under the employment from which the employee is disabled, the date of the "termination of payment of salary or sick leave benefits" under Code Section 15-151 shall be delayed by the number of work days attributable to the vacation payment.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order

SURS will accept a court order as a valid QILDRO or QILDRO Calculation Court Order if it meets all of the following requirements:

- a) The following requirements apply to the QILDRO and the QILDRO Calculation Court Order:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

- 1) The order must be accompanied by a \$50 non-refundable processing fee, by check or money order payable to the State Universities Retirement System.
- 2) The order must be a certified copy of the original.
- 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 the property distribution. A judgment, order or notice of income withholding for support under a support enforcement mechanism under Title IV-D of the Social Security Act (42 USC 666) or any other state law that purports to divide or garnish the member's retirement benefit under any proceeding for the declaration of invalidity of marriage, legal separation or dissolution of marriage will not be honored by SURS unless the judgment, order or notice is accompanied by a QILDRO (and if applicable, a QILDRO Calculation Court Order) issued by an Illinois court.
- 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 Universities Retirement System as the retirement system to which it is directed.
- 7) The order must identify the court that issued it.
- 8) The order must apply only to benefits that are statutorily subject to QILDROs, as provided in [Code](#) Section 1-119(b)(1) ~~of the Pension Code~~.
- 9) The orders and, if applicable, the Consent to Issuance of QILDRO, must be in the form adopted by SURS as of the date the order is received. Any alterations will invalidate the order.
- 10) The effective date of the order must be after July 1, 1999 [and before the](#)

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

date of death of the member. If the effective date of the order is on or after the member's date of death, SURS will deem the effective date of the posthumous order as if it had been entered on the day immediately prior to the member's date of death if the order is dated no later than 6 months after the date of death and:

- A) any applicable consent requirements under subsection (b)(1) were met prior to the member's date of death; or
- B) the order is accompanied by a certified copy of a decree of dissolution of marriage that is dated before the date of death of the member and incorporates the terms of a written marital settlement agreement that was signed by both parties before the date of death of the member and provides direction for the division of the member's SURS benefits under a QILDRO.

b) The following additional requirements apply only to the QILDRO:

- 1) If the QILDRO applies to a person who became a SURS member before July 1, 1999, it must be accompanied by the original Consent to Issuance of QILDRO form signed by the member, or a certified copy of the original. The consent cannot be signed by a judge, sheriff or any person other than the member. A QILDRO issued on or after July 1, 2006 that modifies a QILDRO issued prior to July 1, 2006 must be accompanied by an original Consent to Issuance of QILDRO signed by the member on or after July 1, 2006. If the alternate payee is unable to obtain a signed consent from the member, the required consent can be established if the QILDRO is accompanied by a certified copy of a decree of dissolution of marriage that incorporates the terms of a written marital settlement agreement that was signed by both parties and provides direction for the division of the member's SURS benefits under a QILDRO.
- 2) The QILDRO must specify each benefit to which it applies, and it must specify only one method by which the benefit shall be paid to the alternate payee.
- 3) If any benefit is to be paid using the Marital Portion Benefit Calculation, the QILDRO must comply with Code Section 1-119(n)IX of the Pension Code and the QILDRO must contain language in conformance with

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

Section 1-119(n)IX(1) and (2) properly completed. The "other" option must only be checked for the purpose of using a combination of permissive service and regular service. If the "other" option is checked, a supplemental order stating the details of the combination must accompany the QILDRO. The supplemental order must not purport to establish a formula differing from the ones appearing under Code Section 1-119(n) ~~of the Pension Code~~ or purport to create new classes of service credit.

- 4) If the member is a participant of the Traditional or Portable Benefit Package, the order must designate whether the alternate payee will receive automatic annual increases as provided under Code Section 1-119(n)IV ~~of the Pension Code~~.
 - 5) If the member is a participant of the Self-Managed Plan who has an account balance, then the QILDRO may only provide for the division of the account balance as of a certain date. If the Self-Managed Plan member is receiving benefits under an annuity contract, then the QILDRO may only divide the member's retirement benefit or death benefit, if any, or both.
- c) The following additional requirements apply only to the QILDRO Calculation Court Order:
- 1) The QILDRO Calculation Court Order must allocate benefits consistent with the underlying QILDRO. Benefits that will never become payable on or after the date the QILDRO Calculation Court Order is filed need not be allocated under the QILDRO Calculation Court Order
 - 2) Benefits allocated using a calculation method on the QILDRO Calculation Court Order must contain a clear result of the equation. SURS is not obligated to review or verify the equations or assist in the calculations to determine the benefits.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois National Guard (ING) Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 2730
- 3) Section Number: 2730.40 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)]
- 5) A Complete Description of the Subjects and Issues Involved: This Section is being revised to reflect that ING payment processing functions have been incorporated into the Gift Assistance Program (GAP) Access Portal.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed 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? 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(b)] and does not necessitate 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:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

847/948-8500, ext. 18032
email: lynn.hynes@isac.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: January 2017

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSIONPART 2730
ILLINOIS NATIONAL GUARD (ING) GRANT PROGRAM

Section

2730.10	Summary and Purpose
2730.20	Applicant Eligibility
2730.30	Program Procedures
2730.40	Institutional Procedures

AUTHORITY: Implementing Section 45 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/45 and 20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; rules repealed at 6 Ill. Reg. 8239, effective June 30, 1982; new rules adopted at 6 Ill. Reg. 8413, effective June 30, 1982; codified at 7 Ill. Reg. 10877; amended at 8 Ill. Reg. 17016, effective September 5, 1984; amended at 9 Ill. Reg. 20827, effective January 1, 1986; amended at 11 Ill. Reg. 3202, effective January 29, 1987; amended at 12 Ill. Reg. 11531, effective July 1, 1988; transferred from Chapter IX, 23 Ill. Adm. Code 1730 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2730 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17857; amended at 14 Ill. Reg. 10567, effective July 1, 1990; amended at 16 Ill. Reg. 11254, effective July 1, 1992; amended at 17 Ill. Reg. 10563, effective July 1, 1993; amended at 18 Ill. Reg. 10303, effective July 1, 1994; amended at 20 Ill. Reg. 9187, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11119, effective July 18, 1997; amended at 22 Ill. Reg. 11100, effective July 1, 1998; amended at 24 Ill. Reg. 9148, effective July 1, 2000; amended at 25 Ill. Reg. 8406, effective July 1, 2001; amended at 26 Ill. Reg. 10013, effective July 1, 2002; amended at 27 Ill. Reg. 10338, effective July 1, 2003; amended at 29 Ill. Reg. 9904, effective July 1, 2005; amended at 30 Ill. Reg. 11623, effective July 1, 2006; amended at 32 Ill. Reg. 10305, effective July 1, 2008; amended at 36 Ill. Reg. 9408, effective July 1, 2012; amended at 37 Ill. Reg. 9504, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 15439, effective September 3, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 2891, effective January 15, 2014; amended at 39 Ill. Reg. 8415, effective July 1, 2015; amended at 41 Ill. Reg. _____, effective _____.

Section 2730.40 Institutional Procedures

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- a) The institution must establish a qualified applicant's initial eligibility before requesting payment from ISAC. A valid Illinois National Guard Grant eligibility letter may be used for this purpose.
- b) If a student is eligible for, and has indicated to the institution that he/she has elected to receive, educational assistance through the Post-9/11 GI Bill, and that assistance is an amount described at 38 USC 3313(c)(2), (c)(3), (c)(4), (c)(5), (c)(6) or (c)(7) (net cost of tuition and fees), the institution must first apply Post-9/11 GI Bill benefits to the student's financial aid award. ING Grant benefits can then be used to cover the remaining ING Grant eligible tuition and fees.
- c) Institutions must report the total number of hours for which payment is being requested (including credit and noncredit hours) so that ISAC can accurately track the recipient's use of eligibility units.
- d) ING Grants are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient.
 - 1) ISAC will annually establish priority claim dates for the submission of payment requests and inform institutions of the required priority dates.
 - 2) Late payment requests will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.
 - 3) Institutions may submit payment requests beginning 10 days prior to the start of classes for the term for which payment is being requested.

~~Payment information will be sent each term to the institution no earlier than the application deadline date for that term. Payment claims must be submitted no later than 30 calendar days after payment information has been sent to the institution by ISAC. Supplemental payment claims must be submitted to ISAC no later than 45 calendar days after the original payment information was sent to the institution with the exception of summer term supplements which must be submitted by the same deadline as the original payment claim for summer term. All payment claims received by ISAC after the designated dates will be paid or prorated during the fiscal lapse period (July 1 through August 31) following the conclusion of the fiscal year. To provide sufficient time for processing~~

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

~~and vouchering through the State Comptroller's Office in Springfield, all payment requests except for summer term must be received by ISAC no later than July 1. Summer term payment requests must be received no later than July 31.~~

- e) Claims will be paid as follows:
- 1) first semester and first quarter claims received by the designated deadline date will be paid, or prorated if funding is insufficient to pay all claims in full;
 - 2) if funds remain after first semester and first quarter claims are paid, then second semester and second and third quarter claims received by the designated deadline date will be paid, or prorated if funds remaining are insufficient to pay all such claims in full;
 - 3) if funds still remain after the preceding claims are paid, summer term claims received by the designated deadline date will be paid, or prorated if remaining funds are insufficient to pay all summer claims in full;
 - 4) in the event that funds are not exhausted by summer term payments, claims received after the designated deadline dates will be paid or prorated; and
 - 5) timely claims for the difference between in-district/state and out-of-district/state tuition for recipients who do not qualify for chargebacks 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 (e).
- f) Payments on behalf of a recipient will be made to only one institution per term. For any institution that has a concurrent registration opportunity, the same payment policy will be in effect as that used in the Monetary Award Program. (See: 23 Ill. Adm. Code 2735.40(h).)
- g) Institutions are required to reconcile payments, both payment data and actual funds, received through ING and, as applicable, submit all necessary corrections to student records on a timely basis.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Within 30 days after and including the date of receiving payment of any ING funds claimed pursuant to this Section, the institution shall credit the ING funds against the recipients' tuition and eligible fee charges for the appropriate term.
- 2) Within 30 days after the end of an academic term during which ING funds are credited to recipients' tuition and eligible fee charges, institutions must reconcile data received from ISAC as a result of payment claim processing against the eligibility status throughout that term for each student for whom payment claims were made. In reconciling the data with student eligibility, an institution must determine whether:
 - A) The amount of the claim applied to a student's tuition and eligible fee charges exceeded the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or
 - B) The amount of the claim applied to a student's tuition and eligible fee charges was less than the amount that the student was eligible to receive for any reason, including as a result of billing errors or retroactive withdrawals; or
 - C) The amount of the claim applied to a student's tuition and eligible fee charges equaled the amount that the student was eligible to receive.
- 3) Any institution that determines that the amount of a claim applied to a student's tuition and mandatory fee charges either exceeded the amount that the student was eligible to receive or was less than that amount must submit an accounting of all such adjustments to ISAC within 30 days following the end of the applicable term.
- 4) For any claims determined to exceed the amount that the student was eligible to receive, the amount in excess paid for the claims shall be remitted to ISAC within 45 days after the end of the applicable term unless the payment is received after the end of the regular school year. If the payment of claims is made after the end of the regular school year, the institution shall have 60 days following receipt of the payment to complete reconciliation and remit any funds due to ISAC.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 5) Award payments made in the name of one recipient cannot be applied to another recipient at the same institution. A refund of the payment made must be submitted to ISAC, and a supplemental request for payment must be processed for the proper recipient.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Veterans' Home Nurse Loan Repayment Program
- 2) Code Citation: 23 Ill. Adm. Code 2757
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2757.10	Amendment
2757.20	Amendment
2757.30	Amendment
- 4) Statutory Authority: Implementing the Veterans' Home Nurse Loan Repayment Act [110 ILCS 972] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]
- 5) A Complete Description of the Subjects and Issues Involved: These Sections are being revised to update the name of the program and expand the types of medical professionals who qualify for loan repayment assistance, as a result of the passage of PA 99-813. The medical professionals being added are physicians, certified nurse practitioners, and certified nursing assistants.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: PA 99-813, effective August 15, 2016
- 7) Will this proposed 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? 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(b)] and does not necessitate 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:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 18032
email: lynn.hynes@isac.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: January 2017

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2757

VETERANS' HOME MEDICAL PROVIDERS'
NURSE LOAN REPAYMENT PROGRAM

Section

2757.10	Summary and Purpose
2757.20	Applicant Eligibility
2757.30	Program Procedures

AUTHORITY: Implementing the Veterans' Home Medical Providers' Loan Repayment Act [110 ILCS 972] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Emergency rules adopted at 31 Ill. Reg. 13449, effective September 24, 2007, for a maximum of 150 days; adopted at 32 Ill. Reg. 2394, effective February 1, 2008; amended at 41 Ill. Reg. _____, effective _____.

Section 2757.10 Summary and Purpose

- a) The Veterans' Home Medical Providers'~~Nurse~~ Loan Repayment Program is intended to pay eligible educational loans as an incentive for medical providers~~nurses~~ to pursue and continue their careers at State of Illinois Veterans' Homes.
- b) This Part governs the Veterans' Home Medical Providers'~~Nurse~~ Loan Repayment Program. Additional rules and definitions are contained in General Provisions (23 Ill. Adm. Code 2700).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2757.20 Applicant Eligibility

- a) A qualified applicant shall be:
 - 1) a resident of Illinois;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 2) a United States citizen or eligible noncitizen;
- 3) a medical provider~~an individual~~ who, for each year during which a grant is received, fulfills a separate 12 month period as a physician, certified nurse practitioner, registered professional nurse, certified nursing assistant or licensed practical nurse in a State of Illinois Veterans' Home;
- 4) a borrower with an outstanding balance due on an eligible educational loan;
- 5) an individual who is not in default on a federally guaranteed educational loan and does not owe a refund on a grant or scholarship program administered by ISAC;
- 6) a medical provider~~nurse~~ who meets licensing requirements of the Department of Financial and Professional Regulation or a certified nursing assistant who passed the State-specified examinations to be fully certified;~~and;~~ ~~and~~
- 7) a medical provider~~nurse~~ who has completed the prescribed employment probationary period and whose employment is in good standing as determined by the Department of Veterans' Affairs.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2757.30 Program Procedures

- a) Eligible educational loans include:
 - 1) Stafford Loans;
 - 2) Graduate PLUS Loans;
 - 3) consolidation loans;
 - ~~4) nursing student loans;~~
 - 45) Supplemental Loans for Students;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- ~~56~~) alternative loans; and
 - ~~67~~) other types of government and institutional loans used for medicalnursing education expenses.
- b) Non-eligible loans include:
- 1) credit card payments;
 - 2) Parent PLUS Loans;
 - 3) loans that have been paid in full;
 - 4) loans not governed by State or federal regulations obtained for the purpose of lending from private institutions or family members;
 - 5) any portion of a consolidated loan that cannot be directly attributed to the applicant; and
 - 6) any student loans that can be forgiven by a state or federal agency or a lending institution through a comparable educational debt repayment or forgiveness program.
- c) All applicants annually must complete an ISAC application for the loan repayment program.
- 1) Applications are available at all State of Illinois Veterans' Homes, ISAC's web site, and ISAC's Springfield, Deerfield and Chicago offices.
 - 2) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the application is complete and received at ISAC's Deerfield office.
 - 3) Renewal applicants may be required to submit a history of prior awards in order to show program proceeds were used for eligible educational loans.
- d) Grant assistance under this program may be received for up to 4 years.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- e) ISAC shall select the recipients from among those who have submitted complete applications, including qualified new applicants and those who filed timely renewal applications and have supplied information required in subsection (c).
- f) The total number of grants awarded in a given fiscal year is contingent upon available funding. If funding is insufficient to pay all eligible applicants, awarding will be based on the date the completed application is received in ISAC's Deerfield office. Preference may be given to renewal applicants provided that the recipient continues to meet the eligibility requirements.
- g) The amount repaid by ISAC to the loan holder shall be no more than the borrower's remaining balance on eligible educational loans and shall not exceed \$5,000 per year.
- h) Proceeds will be remitted directly to the holder of the loans to be repaid.
- i) The recipient and loan holder shall submit information for eligible educational loans in sufficient time for ISAC to make payments for each year in which the funds are awarded.
- j) If the loan holder receives an overpayment, the loan holder shall return the amount of the overage to ISAC. A supplemental request must be made by the recipient and processed by ISAC for any funds to be paid to another holder.
- k) When multiple loans are held by a single lending institution, the loan holder shall distribute the payment to one loan until paid in full.
- l) When possible, all loans held at a single lending institution shall be paid in full before monies are distributed to another loan holder.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Special Education Teacher Tuition Waiver (SETTW) Program
- 2) Code Citation: 23 Ill. Adm. Code 2765
- 3) Section Number: 2765.30 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15 (a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15]
- 5) A Complete Description of the Subjects and Issues Involved: This Section is being revised in an effort to maximize the number of available waivers.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed 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? 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(b)] and does not necessitate 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:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Deerfield IL 60015

847/948-8500, ext. 18032

email: lynn.hynes@isac.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: January 2017

The full text of the Proposed Amendment begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2765

ILLINOIS SPECIAL EDUCATION TEACHER TUITION WAIVER (SETTW) PROGRAM

Section

2765.10	Summary and Purpose
2765.20	Applicant Eligibility
2765.30	Program Procedures
2765.40	Institutional Procedures

AUTHORITY: Implementing Section 65.15 and authorized by Sections 20(f) and 65.15(a)(2) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.15].

SOURCE: Adopted at 19 Ill. Reg. 8354, effective July 1, 1995; amended at 20 Ill. Reg. 9194, effective July 1, 1996; old Part repealed and new Part adopted at 21 Ill. Reg. 11129, effective July 18, 1997; amended at 22 Ill. Reg. 11107, effective July 1, 1998; amended at 24 Ill. Reg. 9159, effective July 1, 2000; amended at 26 Ill. Reg. 10037, effective July 1, 2002; amended at 27 Ill. Reg. 10405, effective July 1, 2003; amended at 28 Ill. Reg. 9170, effective July 1, 2004; amended at 29 Ill. Reg. 9941, effective July 1, 2005; amended at 30 Ill. Reg. 11697, effective July 1, 2006; amended at 35 Ill. Reg. 12388, effective July 15, 2011; amended at 37 Ill. Reg. 9550, effective July 1, 2013; amended at 38 Ill. Reg. 13402, effective July 1, 2014; amended at 41 Ill. Reg. _____, effective _____.

Section 2765.30 Program Procedures

- a) A completed ISAC application for the Illinois SETTW Program must be postmarked on or before March 1 immediately preceding the academic year for which the tuition waiver is being requested, in order to receive priority consideration for an award.
- b) ISAC applications for the Illinois SETTW Program are available from eligible institutions, ISAC's website and ISAC's Springfield, Deerfield and Chicago offices.
- c) If the student section of an application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

information; however, the application will be considered for processing as of the date when the student section is complete and received in ISAC's Deerfield office.

- d) Before March 1 of each year, principals of public, private and parochial high schools in Illinois will provide the names of all students in their high school who are anticipated to be qualified applicants.
- e) ISAC shall award 250 Illinois Special Education Teacher Tuition Waivers annually as follows:
 - 1) A maximum of 40 tuition waivers may be awarded annually to qualified applicants who hold valid teaching certificates that are not in the discipline of Special Education. If more than 40 applicants qualify under these provisions, a lottery shall be used to select 40 recipients;
 - 2) A minimum of 105 tuition waivers shall be awarded annually to students scheduled to graduate from an approved high school in the academic year in which the award is made and who rank in the upper half of their class at the end of the sixth semester. Any of the 145 tuition waivers not awarded pursuant to subsections (e)(1) and (3) shall be awarded to this group;
 - 3) A maximum of 105 tuition waivers may be awarded annually to qualified applicants who have graduated from an approved high school prior to the academic year in which the award is made. If more than 105 applicants qualify under this subsection (e)(3), a lottery shall be used to select the 105 recipients. Any of the 105 tuition waivers not awarded pursuant to subsection (e)(2) shall be awarded to this group;
 - 4) ISAC shall select recipients, pursuant to subsection (e)(2), from among qualified applicants based on the highest ACT or SAT-4 test scores from the time periods set forth in 23 Ill. Adm. Code 2760.20(b), (c) and (d), as converted according to the Illinois Standard Test Score table (see 23 Ill. Adm. Code 2760.30(b)(1) and (2));
 - 5) A lottery will be used to determine recipients pursuant to subsection (e)(2) if the number of qualified applicants sharing the same Illinois Standard Test Score exceeds the number of tuition waivers to be awarded.
- f) Notice of eligibility will be sent by July 1 to each qualified applicant who is

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

selected to receive a tuition waiver. The qualified applicant is then responsible for providing a copy of the notice of eligibility to the institution. All other qualified applicants will be notified that they were not selected.

- g) Tuition waivers are applicable towards credit for any semester/quarter within an academic year.
- h) A recipient shall be exempt from paying tuition and mandatory fees for up to four calendar years.
- i) Prior to receiving assistance, the qualified applicant must sign a Teaching Agreement/Promissory Note, which must be submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
 - 1) the recipient pledges to begin teaching on a full-time basis, in the field of Special Education, within one year following graduation from or termination of enrollment in a teacher education program, at a nonprofit, public, private or parochial preschool, elementary or secondary school in Illinois and to continue teaching for at least 2 of the 5 years immediately following;
 - 2) if the teaching requirement is not fulfilled, the tuition waiver converts to a loan and the recipient must repay the entire amount of the tuition waiver (prorated according to the fraction of the teaching obligation not completed), plus interest at a rate equal to 5% per annum; and
 - 3) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.).
- j) The five-year time period during which the teaching requirement must be fulfilled may be extended if the recipient:
 - 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is enrolled full-time in an academic program related to the field of teaching, leading to a graduate or postgraduate degree;

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 3) is temporarily totally disabled for a period of time not to exceed three years, as established by the sworn affidavit of a qualified physician;
 - 4) is actively seeking but unable to find full-time employment as a teacher at an Illinois public, private, or parochial school for one continuous period not to exceed two years, and is able to provide evidence of that fact;
 - 5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or
 - 6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching obligation.
- k) A recipient may be granted a leave of absence by the president of the institution, or his/her designee, for the following reasons:
- 1) earning funds to defray the recipient's educational expenses;
 - 2) illness of the recipient or a member of the recipient's immediate family, as established by the sworn statement of a licensed physician; or
 - 3) military service.
- l) A recipient must complete his or her course of study within six years including leaves of absence. A recipient must remain enrolled on a continuous basis during the regular school year for four years, unless granted a leave of absence. However, a leave of absence granted for military service shall not be considered part of the six years within which a recipient must complete a degree.
- m) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to initial certification as a teacher in Special Education, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study. A recipient who has transferred and is waiting to be accepted into the Special Education program at the new university shall not be subject to this provision provided he or she is enrolled and is pursuing course work that

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

meets the new university's requirements to gain admission to the Special Education program;

- 2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or
 - 3) the latest date upon which the recipient must have begun teaching in order to complete the teaching obligation within five years after completing the postsecondary education for which the waiver was awarded.
- n) If a recipient is required to repay any portion of a tuition waiver awarded prior to July 1, 2014, the repayment period shall be completed within five years after the tuition waiver converts to a loan. If a recipient is required to repay any portion of a tuition waiver awarded after July 1, 2014, the repayment period shall be completed within 10 years after the tuition waiver converts to a loan. Repayment periods may be extended if a recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is pursuing a graduate or postgraduate degree and is enrolled on a full-time basis for one continuous period of time not to exceed three years;
 - 4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or
 - 5) withdraws from a course of study leading to a teacher certification in Special Education but remains enrolled on at least a half-time basis in another academic discipline.
- o) During the time a recipient qualifies for any of the extensions listed in subsection (n) of this Section, he or she shall not be required to make payments and interest shall not continue to accrue.
- p) A recipient shall not be required to pay the amount of the tuition and fees waived

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 682.402(c))²⁵ or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

- q) A holder of a tuition waiver must register for enrollment in a special education program of teacher education within ten days after the beginning of the term for which the tuition waiver was initially awarded. If the recipient fails to comply with this requirement, he or she will forfeit the tuition waiver and ISAC will award it to another qualified applicant.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Boiler and Pressure Vessel Safety
- 2) Code Citation: 41 Ill. Adm. Code 2120
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2120.20	Amendment
2120.40	Amendment
2120.1420	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 2 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2]
- 5) Effective Date of Rules: January 17, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Copies of the incorporated codes are on file in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL 62703, and are available for public inspection at that location.
- 8) A copy of the adopted rules, including any matter incorporated by reference, is on file in the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL 62703, and is available for public inspection at that location.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 6974; May 6, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Changes made between the Proposed and Final Versions: Proposed requirements for CO2 detectors were eliminated from the proposed amendments and no changes to CO2 vessel requirements are being adopted at this time.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None requested
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending to this Part? No

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: These rule changes will require that, for newly installed systems only, the exit points of boiler ventilation piping (both intake and exhaust) be located outside of an occupancy at least 36 inches above grade to prevent carbon monoxide buildup during times of high snowfall. The changes will also clarify the inspection cycle for a historical boiler in the event that one or more required inspections are not conducted by the owner or operator. If four consecutive years of inspections are not conducted, this rulemaking will require the owner to start a new cycle of regular inspections at 2-year intervals with an initial inspection that conducts ultrasonic testing (UT) of 100% of the surface of the object using certified UT testing personnel. These amendments also update the national technical codes incorporated into these rules as required by Section 2 of the Boiler and Pressure Vessel Safety Act, 430 ILCS 75/2.
- 16) Information and questions regarding these adopted rules shall be directed to:

Tom Andryk
Legal Division
Attn: Part 2120 Rules
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/785-5758
fax: 217/524-5487

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

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION

CHAPTER III: BOARD OF BOILER AND PRESSURE VESSEL RULES

PART 2120

BOILER AND PRESSURE VESSEL SAFETY

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section

2120.10	Definitions
2120.20	Incorporation of National Standards
2120.30	Fees
2120.40	Administration
2120.50	Inspectors, Examinations, Certificate of Competency and Commission

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION,
MAINTENANCE, AND USE

Section

2120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
2120.200	New Installations of Pressure Vessels
2120.300	Existing Installations of Power Boilers
2120.400	Operation of Boilers and Pressure Vessels
2120.500	Existing Installation of Pressure Vessels

SUBPART C: REPAIR AND ALTERATION

Section

2120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
2120.1010	Authorization to Repair Boilers and Pressure Vessels
2120.1020	Issuance and Renewal of the Certificate
2120.1030	Changes to Certificates of Authorization
2120.1040	Quality Control Requirements
2120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

Section

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

2120.1100 Procedure for the Issuance of a State Special Permit

SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section

2120.1200 Authorization for Repair of Safety & Safety Relief Valves
2120.1210 Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
2120.1220 Issuance and Renewal of the Certificate
2120.1240 Changes to Certificates of Authorization
2120.1250 Repairs to Safety and Safety Relief Valves
2120.1260 Quality Control System
2120.1270 Nameplates
2120.1275 Field Repair
2120.1280 Performance Testing of Repaired Valves
2120.1285 Training of Valve Repair Personnel
2120.1290 ASME "V", "UV" or National Board "VR" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section

2120.1300 Introduction
2120.1301 Authority and Responsibility
2120.1305 Organization
2120.1310 Inservice Inspection Program
2120.1320 Drawings, Design Calculations, and Specification Control
2120.1325 Material Control
2120.1330 Examination and Inspection Program
2120.1335 Correction of Nonconformities
2120.1340 Welding
2120.1345 Nondestructive Examination
2120.1350 Calibration of Measurement and Test Equipment
2120.1355 Records
2120.1360 Inspectors

SUBPART G: HISTORICAL BOILERS

Section

2120.1400 Scope

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

2120.1410	Historical Boiler Definition
2120.1420	Historical Boiler Inspections
2120.1430	Fees
2120.1440	Repairs and Alterations
2120.APPENDIX A	Operational and Maintenance Log
2120.EXHIBIT A	Hot Water Heating Boilers
2120.EXHIBIT B	Steam Heating Boilers

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2 and 2.1].

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg. 10677; amended at 7 Ill. Reg. 6925, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16587, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1992; amended at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 21 Ill. Reg. 997, effective January 1, 1997; amended at 23 Ill. Reg. 162, effective January 1, 1999; amended at 24 Ill. Reg. 18555, effective December 7, 2000; amended at 25 Ill. Reg. 11914, effective January 1, 2002; amended at 27 Ill. Reg. 518, effective January 01, 2003; emergency amendment at 27 Ill. Reg. 14855, effective September 2, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1737, effective January 13, 2004; amended at 28 Ill. Reg. 13509, effective September 24, 2004; amended at 32 Ill. Reg. 17198, effective October 16, 2008; amended at 35 Ill. Reg. 9028, effective July 1, 2011; amended at 37 Ill. Reg. 13424, effective August 1, 2013; amended at 38 Ill. Reg. 18925, effective September 4, 2014; recodified from Chapter I, 41 Ill. Adm. Code 120, to Chapter III, 41 Ill. Adm. Code 2120, at 39 Ill. Reg. 10645; amended at 41 Ill. Reg. 846, effective January 17, 2017.

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section 2120.20 Incorporation of National Standards

- a) Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.
- b) The Board hereby adopts the following nationally recognized standards and addenda:

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 1) American Petroleum Institute (API)
1220 L Street, Northwest
Washington DC 20005

API-510, ~~Tenth~~^{Ninth} Edition, ~~May 2014~~^{June 2006}, Pressure Vessel Inspection Code: ~~In-service~~^{Maintenance} Inspection, Rating, Repair, and Alteration

- 2) American Society of Mechanical Engineers (ASME)
United Engineering Center
Three Park Avenue
New York NY 10017
www.asme.org

- A) ASME Boiler and Pressure Vessel Code, ~~2015~~²⁰¹³ Edition

Section I	Rules for Construction of Power Boilers
Section II	Material Specifications – Part A – Ferrous
Section II	Material Specifications – Part B – Nonferrous
Section II	Material Specifications – Part C – Welding Rods, Electrodes and Filler Metals
Section II	Material Specifications – Part D – Properties (Customary)
Section IV	Rules for Construction of Heating Boilers
Section V	Nondestructive Examination
Section VI	Recommended Rules for the Care and Operation of Heating Boilers
Section VII	Recommended Guidelines for the Care of Power Boilers
Section VIII	Pressure Vessels – Division 1, Rules for Construction of Pressure Vessels (Including Appendix M)
Section VIII	Pressure Vessels – Division 2 – Alternative Rules

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

Section VIII	Pressure Vessels – Division 3 – Alternative Rules for Construction of High Pressure Vessels
Section IX	<u>Welding, Brazing and Fusing Qualifications</u> Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators
Section X	Fiberglass-Reinforced Plastic Pressure Vessels

B) ASME CSD-1 ~~2012~~~~2009~~ – Controls and Safety Devices for Automatically Fired Boilers

- 3) National Board of Boiler and Pressure Vessel Inspectors (NB)
1055 Crupper Avenue
Columbus OH 43229
www.nationalboard.org

National Board Inspection Code (NBIC), ~~2015~~~~2013~~ Edition

- 4) National Fire Protection Association (NFPA)
1 Batterymarch Park
Quincy MA 02269-9101
www.nfpa.org

NFPA 85 Boiler and Combustion Systems Hazards Code,
~~2015~~~~2011~~ Edition

(Source: Amended at 41 Ill. Reg. 846, effective January 17, 2017)

Section 2120.40 Administration

- a) Applying State Serial Number. The State serial number on boilers shall be not less than $\frac{5}{16}$ " in height and shall be preceded by the letter "B". The State serial number on pressure vessels shall be not less than $\frac{5}{16}$ " in height and shall be preceded by the letter "U". The inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel at the time of inspection.
- b) First Time Inspection. Effective January 1, 1999, all first time inspections of boilers and pressure vessels shall be performed by the Chief or a Deputy Inspector

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

employed by the Division.

- c) Basis for Extending Certificate of Internal Inspection for Power Boilers. The Chief Inspector is authorized to extend, for a period not exceeding one year, or 2 years for power boilers having an output rated at or above 450,000 lbs/hr, the time within which power boilers are required to be internally inspected, subject to the following conditions and qualifications:
- 1) The analysis and treatment of feedwater for power boilers shall be under the supervision of a person qualified in the field of water chemistry.
 - 2) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, encrusting and sludging factors affecting the safety of the boiler.
 - 3) The owner or user of power boilers must maintain, for examination by the inspector, accurate records of chemical and physical laboratory analyses of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records must specify dates and times of analyses, by whom analyzed, and the treatment applied at that time, and should be certified by the responsible authority. These records will adequately show the conditions of the water and any constituents or characteristics that are capable of producing corrosion or other deterioration of the boiler or its parts.
 - 4) The Chief Inspector is authorized to review the qualifications of the supervisor and the acceptability of supervision in accordance with the requirements of subsections (c)(1) through (c)(3).
 - 5) An internal inspection must have been performed during a pre-planned outage allowing appropriate time for a complete and comprehensive evaluation, including inspections of watersides, furnace area and all gas passages, with no deficiencies found that would preclude extending the internal inspection for one year, or 2 years for power boilers having an output rated at or above 450,000 lbs/hr.
 - 6) At no time shall the period between internal inspections for boilers having an output rated at or above 450,000 lbs/hr exceed a 36-month time interval.

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 7) Application for extension shall be by letter setting forth facts establishing compliance with the requirements of subsections (c)(1) through (c)(7) and shall be accompanied by the report of external inspection.
- d) **Unsafe Boilers or Pressure Vessels.** Any boiler or pressure vessel having been inspected and declared unsafe by an inspector shall have the Inspection Certificate suspended.
- e) **Factors of Safety for Existing Installations.** An inspector shall increase the factors of safety if the condition of a boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Board.
- f) **Frequency of Inspection of Boilers and Pressure Vessels**
 - 1) Power boilers and high temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where conditions permit unless authorization is granted by the chief inspector to extend the internal inspection as permitted in subsection (c). The boilers shall also be inspected externally annually while under representative operating conditions, if possible, except that a power boiler having an output rated at or above 450,000 lbs/hr may forgo the external inspection for the year the internal inspection is conducted.
 - 2) Low pressure steam and hot water heating boilers and hot water supply boilers shall receive a certificate inspection every 2 years. Groups of heating and hot water supply boilers connected together shall be registered as one unit and receive one Inspection Certificate when the following conditions are met:
 - A) No unit exceeds 400,000 BTU input;
 - B) All units being considered in the assembled modular unit are connected to a common header or manifold; and
 - C) No more than 8 units can be grouped together and registered as one unit.

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 3) Inspection of the flame safeguard equipment shall be in conjunction with the regular inspections of boilers.
 - 4) Pressure vessels subject to internal corrosion shall receive a certificate inspection every 3 years. This inspection shall be external and internal where conditions permit. However, owner-users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the NBIC for inspection intervals.
 - 5) Pressure vessels not subject to internal corrosion shall receive a certificate inspection every 3 years. However, owner-users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the NBIC for inspection intervals.
- g) Inspection and Inspection Certificate Fees
- 1) If a boiler or pressure vessel shall, upon inspection, be found to be suitable and to conform to this Part, the owner or user will be invoiced the fees established by the Board for each boiler and pressure vessel inspected. The fee must be paid before an Inspection Certificate will be issued.
 - 2) If the owner or user of each boiler or pressure vessel required to be inspected refuses or fails to allow an inspection to be made or refuses or fails to pay the appropriate fees, the Inspection Certificate, if it has not expired, shall be suspended by the Chief Inspector until the owner or user complies with the requirements.
 - 3) The owner or user who causes a boiler or pressure vessel to be operated without a valid Inspection Certificate shall be guilty of a Class B misdemeanor and each day shall be deemed a separate offense in accordance with Section 12 of the Act.
- h) Inspectors to Have No Other Interests. It is prohibited for any employee of the Division of Boiler and Pressure Vessel Safety to accept any compensation or remuneration from any source for acting as a consultant, engineer, safety engineer, safety specialist, etc., or under any other title. Employees of this Division shall not be engaged in the sale of any article or device that is related to boilers or pressure vessels and shall devote their full time to inspection work.

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- i) Installing Used or Second-hand Boilers or Pressure Vessels. A certificate inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation in this State. When a boiler or pressure vessel is moved and reinstalled, the fittings and appurtenances shall be upgraded to comply with the rules for new installations.
- j) Inspectors to Notify Chief Inspector of Defective Boilers and Pressure Vessels. If an inspector finds that a boiler or pressure vessel or any of the appurtenances are in an unsafe condition, the inspector shall immediately notify the Chief Inspector and submit a report of the defects.
- k) Insurance Agencies to Notify the Chief Inspector of New, Cancelled or Suspended Risks. All insurance agencies shall notify the Chief Inspector within 30 days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended in Illinois.
- l) Manufacturers Data Reports to be Filed. Effective January 1, 1974, Manufacturers Data Reports on boilers and, as amended December 31, 1976, for pressure vessels, that are to be installed in the State of Illinois (unless otherwise exempted by this Part) shall be filed with the Chief Inspector through the National Board. Each boiler and pressure vessel for which a report is filed should be assigned a National Board number.
- m) Boilers and Pressure Vessels without ASME Stamping. If the boiler or pressure vessel does not bear the ASME stamp, then the drawings, data and material showing all details of construction shall be submitted to the Chief Inspector and the Chief Inspector's approval shall be obtained before installation in this State. The Chief Inspector shall grant approval if the construction, materials and inspection requirements meet the rules, except for ASME stamp.
- n) Notification of Inspection. The owner or user shall prepare each boiler or pressure vessel for internal inspection and shall prepare for and apply a hydrostatic test whenever necessary, on the date specified by an inspector, which shall be not less than 7 days after the date of notification.
- o) Owner to Notify Chief Inspector in Case of Accident. Any owner or user, which includes any person, firm, partnership, corporation, or governmental entity, that knowingly fails to notify the Chief Inspector within 24 hours, or on the next business day, of an accident, explosion, event, or incident that serves to render a

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

boiler or pressure vessel inoperative because of damage or failure or that involves any bodily injury or death to any person is guilty of a Class B misdemeanor, if a natural person, or a business offense punishable by a fine of not less than \$501 and not more than \$10,000, if a corporation or governmental entity.

- p) Penalties. Any person, firm, partnership or corporation violating any of the provisions of this Part shall be subject to the penalties provided in the Boiler and Pressure Vessel Safety Act.
- q) Registration of Boilers and Pressure Vessels. All owners or users of boilers and pressure vessels subject to the Act now in use or installed ready for use in the State of Illinois shall notify the Chief Inspector in writing giving the location, type, capacity, age and date of installation.
- r) Removal of Safety Appliances
 - 1) No person, except under the direction of an inspector, shall attempt to remove or shall do any work upon safety appliances required by this Part while a boiler or pressure vessel is in operation. Should any of these appliances be repaired during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.
 - 2) No person shall in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the Inspection Certificate.
- s) Stamping of Boilers and Pressure Vessels. Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. The number will be assigned by the Chief Inspector and applied to the boiler or pressure vessel by the inspector at the time of inspection. Also, the Code required stamping shall be kept free of paint and lagging so that it will be plainly visible and easily read by the inspector.
- t) Inspections and Inspection Reports-
 - 1) Inspection Reports shall be submitted within 10 days from the date of inspection.
 - 2) All Inspection Reports shall be completed with all pertinent information as

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

required, including location and actual conditions observed.

- 3) The Chief or a Deputy Inspector employed by the Division, and Special Inspectors, shall have up to 90 days after the expiration of the Inspection Certificate to conduct his or her inspection. *An Inspection Certificate shall remain valid beyond the expiration date noted on the certificate until the boiler or pressure vessel is reinspected by the authorized inspecting authorities or until the certificate is suspended by the Chief Inspector, provided that the owner or user of the boiler or pressure vessel makes it available for inspection at reasonable times.* [430 ILCS 75/11(b)]
- 4) Validity of Inspection Certificate. The Chief Inspector may at any time suspend an Inspection Certificate when the boiler or pressure vessel for which it was issued may not continue to be operated without menace to public safety, or when the boiler or pressure vessel is found not to comply with this Part. A Special Inspector shall have authority to request suspension of an Inspection Certificate for boilers or pressure vessels insured by the employing company. Suspension of an Inspection Certificate shall continue in effect until the boiler or pressure vessel has been made to conform to this Part.

u) For all boiler systems installed after December 1, 2014, the intake and exhaust points for all boiler ventilation piping shall be located outside of the building served and at least 36 inches above grade.

(Source: Amended at 41 Ill. Reg. 846, effective January 17, 2017)

SUBPART G: HISTORICAL BOILERS

Section 2120.1420 Historical Boiler Inspections

- a) Frequency of Inspection. Historical boilers shall be inspected every two years.
- b) Preparation for Inspection
 - 1) It is the responsibility of the owner to assure the historical boiler is properly prepared for inspection.

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 2) As much preparation as possible shall be completed prior to the arrival of the inspector.
 - 3) Standards of inspection shall be the requirements of the National Board Inspection Code (NBIC) and this Subpart.
 - 4) Preparation for internal inspection shall be as required by the NBIC, including:
 - A) The boiler must be at ambient temperature and dry.
 - B) Fireside open and grates must be removed.
 - C) Fireside tubesheets and tubes must be thoroughly cleaned of soot and ash.
 - D) Waterside drained and hand holes, plugs and inspection openings must be removed.
 - E) Sediment, scale and mud must be flushed.
 - F) Insulation or jackets must be removed, as appropriate.
 - 5) When there is limited or no access for visual inspection, remote camera or fiber optic devices may be used.
- c) Inspection Sequence
- 1) Initial Inspection. In addition to initial internal and external visual inspection, a baseline full grid ultrasonic testing (UT) inspection, as required by NBIC, shall be performed. The boiler shall be equipped with a fusible plug.
 - 2) Subsequent Inspections
 - A) A certificate inspection two years following the initial inspection shall be performed. The certificate inspection will consist of a hydro test of between 100% and 125% of the calculated maximum

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

allowable working pressure, along with an external visual inspection both at rest and under pressure.

- i) The owner shall provide the pump, water, water temperature and expertise to safely complete the test, including proper protection from the elements as needed.
 - ii) A powered mechanical pump must have a safety relief device between the pump discharge and the boiler inlet.
 - iii) The State of Illinois will not be responsible for damage occurring as a result of the hydro test.
- B) A certificate inspection shall be performed two years following the hydro test and shall consist of a detailed internal and external visual inspection with a spot check of approximately 10% UT coverage on all stayed and un-stayed surfaces.
- C) Subsequent certificate inspections shall be performed every 2 years and shall follow a cycle of first performing a hydro test and then performing a detailed internal and external visual inspection with a spot check of approximately 10% UT coverage on all stayed and unstayed surfaces.
- D) At no time shall the interval for internal inspection exceed 4 years.
- E) If 4 consecutive years of inspections (2 certificate inspections) are not conducted, the next inspection shall be an initial inspection (see subsection (c)(1)), with full grid UT inspection performed by a certified American Society for Nondestructive Testing (ASNT) Level II UT Inspector. The owner will be responsible for this second full grid UT inspection.
- d) In-service Inspection Option at the Discretion of the Inspector. In lieu of the hydro test, an Inspector may choose to witness the object in operation. The following examinations and tests shall be performed while the boiler is in operation:

BOARD OF BOILER AND PRESSURE VESSEL RULES

NOTICE OF ADOPTED AMENDMENTS

- 1) Two independent means of boiler feed water delivery systems shall be demonstrated to the Inspector. Observance is to be performed at an operating pressure no less than 90% of the safety valve set point of the boiler. If the boiler is equipped with more than one feed water tank, each feed water device must be able to take water out of either feed water tank. Pumped feed water shall be preheated prior to entering the boiler.
 - 2) Demonstration of operable try-cocks that show a level of water that correlates with that shown in the gauge glass.
 - 3) Demonstration of operating gauge glass upper and lower shutoff valves.
 - 4) Demonstration of an operating gauge glass blow down valve.
 - 5) Verification that the gauge glass is visually clear and fully operational.
 - 6) Visual inspection for leaks.
 - 7) Safety Valve Test. Safety valves shall be tested by having the operator raise boiler pressure to the safety valve popping point. Popping point pressure and blow down will be observed to ensure they are within tolerances (see NBIC Part 2, S2.8). A certification acceptable under Section 2120.1210 may also be used for verification of set pressures.
- e) Additional Inspection as May Be Required. The boiler may be subjected to other methods of inspection, at the owner's expense, as deemed necessary by the boiler inspector to determine soundness and to assure the safety of the operators and citizens of the State of Illinois.
- f) Display of Inspection Certificate. The current Inspection Certificate shall be posted in a visible area near the point of operation.

(Source: Amended at 41 Ill. Reg. 846, effective January 17, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Electric Interconnection of Distributed Generation Facilities
- 2) Code Citation: 83 Ill. Adm. Code 466
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
466.30	Amendment
466.35	New Section
466.45	New Section
466.50	Amendment
466.60	Amendment
466.70	Amendment
466.80	Amendment
466.90	Amendment
466.100	Amendment
466.110	Amendment
466.120	Amendment
466.APPENDIX A	Amendment
466.APPENDIX B	Amendment
466.APPENDIX C	Amendment
466.APPENDIX D	Amendment
466.APPENDIX G	Amendment
- 4) Statutory Authority: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101]
- 5) Effective Date of Rules: January 20, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 2300; February 5, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 11) Differences between Proposal and Final Version: Clarifying information about fees has been added to Sections 466.90(b)(4)(B), 466.100(c)(2) and (3)(A), and 466.110(b)(2) and (3)(A). Further direction regarding interconnection facilities studies has been added to Sections 466.90(b)(4)(B)(ii) and 466.110(b)(3)(B). Definitions of "IEEE" and "IEEE Standard 519-2014" have been added to Section 466.30. Finally, a number of stylistic changes and corrections have been made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Does 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: This rulemaking and the associated proceeding for 83 Ill. Adm. Code 467 update the Commission's rules on interconnection, reflecting recent changes by the Federal Energy Regulatory Commission in its own rules on small-generator interconnection and the push for smart grid infrastructure improvement in Illinois. In addition, the amendments advance the statutory goal of minimizing barriers to the interconnection of distributed generation.
- 16) Questions or requests for information about these adopted rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
 CHAPTER I: ILLINOIS COMMERCE COMMISSION
 SUBCHAPTER c: ELECTRIC UTILITIES

PART 466

ELECTRIC INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES

Section

466.10	Scope
466.30	Definitions
466.35	Waiver
466.40	Technical Standards standards
466.45	Pre-Application Report
466.50	Interconnection Requests requests
466.60	General Requirements requirements
466.70	Lab-Certified Equipment Lab-certified equipment
466.80	Determining the Review Level review level
466.90	Level 1 Expedited Review expedited review
466.100	Level 2 Expedited Review expedited review
466.110	Level 3 Expedited Review expedited review
466.120	Level 4 Review review
466.130	Disputes
466.140	Records
466.APPENDIX A	Level 1 Application and Contract
466.APPENDIX B	Certificate of Completion
466.APPENDIX C	Levels 2 to 4 Application
466.APPENDIX D	Levels 1 2 to 4 Contract
466.APPENDIX E	Interconnection Feasibility Study Agreement
466.APPENDIX F	Interconnection System Impact Study Agreement
466.APPENDIX G	Interconnection Facilities Study Agreement

AUTHORITY: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101].

SOURCE: Emergency rules adopted at 32 Ill. Reg. 6556, effective April 1, 2008, for a maximum of 150 days; adopted at 32 Ill. Reg. 14504, effective August 25, 2008; amended at 41 Ill. Reg. 862, effective January 20, 2017.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.30 Definitions

Terms defined in Section 16-102 of the Public Utilities Act (Act) [220 ILCS 5/16-102] shall have the same meaning for purposes of this part as they have under Section ~~5~~16-102 of the Act, unless further defined in this Part. The following words and terms, when used in this Part, have the following meanings unless the context indicates otherwise:

"Adverse system impact" means a negative effect that compromises the safety or reliability of the electric distribution system or materially affects the quality of electric service provided by the electric distribution company (EDC) to other customers.

"Affected system" means an electric system not owned or operated by the electric distribution company reviewing the interconnection request that could suffer an adverse system impact from the proposed interconnection.

"Applicant" means a person (or entity) who has submitted an interconnection request to interconnect a distributed generation facility to an EDC's electric distribution system.

"Area network" means a type of electric distribution system served by multiple transformers interconnected in an electrical network circuit, generally used in large, densely populated metropolitan areas.

"Business day" means Monday through Friday, excluding State and federal holidays.

"Calendar day" means any day, including Saturdays, Sundays and State and federal holidays.

"Certificate of completion" means a certificate, in a form approved by the Commission, that contains information about the interconnection equipment to be used, its installation and local inspections (see Appendix B).

"Commissioning test" means tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts and performs to the submitted specifications. At a minimum, the scope of the commissioning tests performed shall include the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

commissioning test specified in Institute of Electrical and Electronics Engineers, Inc. (IEEE) Standard 1547 Section 5.4 "Commissioning tests:".

"Distributed generation facility" means the equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, a prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or local electric power system.

"Distribution upgrade" means a required addition or modification to the electric distribution system to accommodate the interconnection of the distributed generation facility. Distribution upgrades do not include interconnection facilities.

"Draw-out type circuit breaker" means a switching device capable of making, carrying and breaking currents under normal and abnormal circuit conditions such as those of a short circuit. A draw-out circuit breaker can be physically removed from its enclosure creating a visible break in the circuit. The draw-out circuit breaker shall be capable of being locked in the open, drawn-out position.

"Electric distribution company" (EDC) means any electric utility subject to the jurisdiction of the Commission.

"Electric distribution system" means the facilities and equipment owned and operated by the EDC and used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas, but generally operate at less than 100 kilovolts (kV) of electricity. "Electric distribution system" has the same meaning as the term "Area EPS," as defined in Section 3.1.6.1 of IEEE Standard 1547.

"Fault current" is the electrical current that flows through a circuit during an electrical fault condition. A fault condition occurs when one or more electrical conductors contact ground or each other. Types of faults include phase to ground, double-phase to ground, three-phase to ground, phase-to-phase, and three-phase. Often, a fault current is several times larger in magnitude than the current that normally flows through a circuit.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"IEEE" is the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York NY 10016-5997 (<http://www.ieee.org>).

"IEEE Standard 519-2014" is the IEEE Standard 519-2014 (2014) "IEEE Recommended Practice and Requirements for Harmonic Control in Electric Power Systems". This incorporation does not include any later amendments or editions.

"IEEE Standard 1547" is the ~~IEEE Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997~~, Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems:". This incorporation does not include any later amendments or editions.

"IEEE Standard 1547.1" is the IEEE Standard 1547.1 (2005) "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems." This incorporation does not include any later amendments or editions.

"Interconnection customer" means a person or entity that interconnects a distributed generation facility to an electric distribution system.

"Interconnection equipment" means a group of components or an integrated system owned and operated by the interconnection customer that connects an electric generator with a local electric power system, as that term is defined in Section 3.1.6.2 of IEEE Standard 1547, or with the electric distribution system. Interconnection equipment is all interface equipment including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

"Interconnection facilities" means facilities and equipment required by the EDC to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility's interconnection equipment and the point of interconnection, including any modifications, additions, or upgrades necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Interconnection request" means an applicant's request, in a form approved by the Commission, for interconnection of a new distributed generation facility or to change the capacity or other operating characteristics of an existing distributed generation facility already interconnected with the electric distribution system.

"Interconnection study" is any study described in [SectionSections](#) 466.120.

"Lab-certified" means a designation that the interconnection equipment meets the requirements set forth in Section 466.70.

"Line section" is that portion of an electric distribution system connected to an interconnection customer's site, bounded by automatic sectionalizing devices and/or the end of the distribution line.

"Local electric power system" means facilities that deliver electric power to a load that is contained entirely within a single premises or group of premises. Local electric power system has the same meaning as that term has as defined in Section 3.1.6.2 of IEEE Standard 1547.

"Minor system modifications" means modifications to an EDC's Electric Distribution System located between the service tap on the distribution circuit and the meter serving the Interconnection Customer or other minor system changes that the EDC estimates will entail less than four hours of work and \$1000 in materials.

"Nameplate capacity" is the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

"Nationally recognized testing laboratory" or "NRTL" means a qualified private organization that meets the requirements of the Occupational Safety and Health Administration's (OSHA) regulations. See 29 CFR 1910.7. ([February 25, 2011July 31, 2000](#)). This incorporation does not include any later amendments or editions. NRTLs perform independent safety testing and product certification. Each NRTL shall meet the requirements as set forth by OSHA in its NRTL program.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Parallel operation" or "parallel" means a distributed generation facility that is connected electrically to the electric distribution system for longer than 100 milliseconds.

"Point of interconnection" means the point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling" defined in Section 3.1.13 of IEEE Standard 1547.

"Primary line" means an electric distribution system line operating at greater than 600 volts.

"Queue position" means, for each distribution circuit or line section, the order of a completed interconnection request relative to all other pending completed interconnection requests on that distribution circuit or line section. It is established by the date that the EDC receives the completed interconnection request.

"Radial distribution circuit" means a circuit configuration in which independent feeders branch out radially from a common source of supply.

"Scoping meeting" means a meeting between representatives of the applicant and EDC conducted for the purpose of discussing interconnection issues and exchanging relevant information.

"Secondary line" means an electric distribution system line, or service line, operating at 600 volts or less.

"Shared transformer" means a transformer that supplies secondary voltage to more than one customer.

"Spot network" means a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit. A spot network is generally used to supply power to a single customer or a small group of customers. Spot network has the same meaning as the term "spot network" defined in Section 4.1.4 of IEEE Standard 1547.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Standard distributed generation interconnection agreement" means a standard interconnection agreement applicable to interconnection requests for distributed generation facilities. (see Appendices A and D).

"UL Standard 1741" means the standard titled "Inverters, Converters, ~~and~~ Controllers and Interconnection System Equipment for Use With Distributed Energy Resources (January 28, 2010)~~in Independent Power Systems," November 7, 2005 edition,~~ Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, IL 60062-2096. This incorporation does not include any later amendments or editions.

"Witness test" means a verification either by an on-site observation or review of documents that the interconnection installation evaluation required by IEEE Standard 1547 Section 5.3 and the commissioning test required by IEEE Standard 1547 Section 5.4 have been performed. For interconnection equipment that has not been lab-certified, the witness test shall also include verification of the on-site design tests as required by IEEE Standard 1547 Section 5.1 and verification of production tests required by IEEE Standard 1547 Section 5.2. All verified tests are to be performed in accordance with the test procedures specified by IEEE Standard 1547.1.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.35 Waiver

- a) The Commission may, on application or petition of an EDC, distributed generation applicant or customer, or on its own motion, grant a temporary or permanent waiver from this Part, or any Section or subsection of this Part, in individual cases in which the Commission finds that:
- 1) the provision from which the waiver is granted is not statutorily mandated;
 - 2) no party will be injured by the granting of the waiver; and
 - 3) the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.
- b) The burden of proof in establishing a right to waiver shall be on the party seeking the waiver.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.45 Pre-Application Report

- a) A potential applicant may submit a formal written request form along with a non-refundable fee of \$300 for a pre-application report on a proposed project at a specific site. The EDC shall provide the pre-application data described in Section 466.50(b) to the potential applicant within 20 business days after receipt of the completed pre-application report request form and payment of the \$300 fee. The pre-application report produced by the EDC is non-binding and does not confer any rights; the potential applicant must file an application before it can interconnect with the EDC's system. The written pre-application report request form shall include the following information:
- 1) project contact information, including name, address, phone number and email address;
 - 2) project location (street address with nearby cross streets and town);
 - 3) meter number, pole number, EDC account number or other equivalent information identifying proposed point of interconnection, if available;
 - 4) generator type (e.g., solar, wind, combined heat and power, battery storage/inverter system and fuel cells);
 - 5) total generation capacity (alternating current kW);
 - 6) single or three phase generator configuration;
 - 7) whether new electric service is required for the site. Include the existing minimum and maximum on-site electrical demand (in kW) and describe any expected changes to the minimum and/or maximum on-site electrical demand (in kW), including the timing of those changes; and
 - 8) number and capacity of each generator unit to be interconnected at the site specified in the pre-application report request.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- b) Using the information provided in the pre-application report request form described in subsection (a), the EDC will identify the distribution facilities that are likely to serve the proposed point of interconnection if the project is constructed, including: substation/area bus, substation transformer and/or distribution circuit, as applicable. This identification by the EDC does not guarantee, after application of the relevant review process, that the EDC will use the distribution facilities identified in the pre-application report to connect to the project. The potential applicant must request additional pre-application reports if information about multiple points of interconnection is requested. Subject to subsection (c), the pre-application report shall include the following information:
- 1) total capacity (in mega volt amperes (MVA)) of substation/area bus, substation transformer or distribution circuit that the EDC identifies, based on the operating ratings that the EDC expects would apply to these facilities if used to serve the proposed point of interconnection;
 - 2) existing aggregate generation capacity (i.e., amount of generation online, in MVA) interconnected to the substation/area bus, substation transformer or distribution circuit that the EDC identifies;
 - 3) aggregate queued generation capacity (i.e., amount of generation in the queue, in MVA) for the substation/area bus, substation transformer or distribution circuit that the EDC identifies;
 - 4) available capacity (i.e., total capacity less the sum of existing aggregate generation capacity and aggregate queued generation capacity, in MVA) of substation/area bus, substation transformer or distribution circuit that the EDC identifies;
 - 5) nominal operating voltages of substation/area bus, substation transformer and/or distribution circuit that the EDC identifies;
 - 6) nominal operating voltage of the identified distribution circuit at the proposed point of interconnection;
 - 7) approximate circuit distance between the proposed point of interconnection and the identified substation/area bus;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 8) relevant line sections actual or estimated peak load and minimum load data, including daytime minimum load (i.e., minimum load from 10 a.m. to 4 p.m. for fixed panel photovoltaic systems and from 8 a.m. to 6 p.m. for photovoltaic (PV) systems utilizing tracking systems), and absolute minimum load, when available;
 - 9) number and rating of protective devices and number and type (standard, bi-directional) of voltage regulating devices between the proposed point of interconnection and the substation/area bus that the EDC identifies;
 - 10) whether the identified substation transformer uses a load tap changer;
 - 11) number of phases available at the proposed point of interconnection. If a single phase, the distance from the proposed point of interconnection to the EDC's three-phase distribution circuit;
 - 12) limiting conductor ratings from the proposed point of interconnection to the distribution substation;
 - 13) whether the point of interconnection is located on a spot network, grid network or radial supply; and
 - 14) based on the proposed point of interconnection, existing or known constraints such as, but not limited to, electrical dependencies at that location, short circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints or secondary networks.
- c) The pre-application report need only include existing data. A pre-application report request does not obligate the EDC to conduct a study or other analysis of the proposed generator in the event that data is not available. If some of the data is not available, the EDC shall provide the interconnection customer with a pre-application report that includes the data that is available. The information concerning "available capacity" provided pursuant to subsection (b)(4) does not imply that an interconnection up to this level may be completed without impacts, because there are many variables studied as part of the interconnection review process, and data provided in the pre-application report may become outdated by the time the complete application is submitted. Notwithstanding any of the provisions of this Section, the EDC shall, in good faith, include data in the pre-

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

application report that represents the best available information at the time of reporting.

(Source: Added at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.50 Interconnection Requests

- a) Applicants seeking to interconnect a distributed generation facility shall submit an interconnection request to the EDC that owns the electric distribution system to which interconnection is sought. Applicants shall use interconnection request forms approved by the Commission.
- b) EDCs may charge a fee by level that an applicant must remit in order to process an interconnection request.~~EDCs shall specify the fee by level that the applicant shall remit to process the interconnection request. The fee shall be specified in the interconnection request forms. EDCs may charge a fee by level that applicants must remit in order to process an interconnection request.~~ The EDCs shall not charge more than the fees specified in the interconnection request application forms (Appendices A and D).
- c) Interconnection requests may be submitted electronically, if agreed to by the parties.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.60 General Requirements

- a) When an interconnection request for a distributed generation facility includes multiple energy production devices at a site for which the applicant seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of the multiple devices.
- b) When an interconnection request is for an increase in capacity for an existing distributed generation facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the distributed generation facility.
- c) EDCs shall designate a point of contact and provide contact information on its website. The point of contact shall be able to direct applicant questions

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

concerning interconnection request submissions and the interconnection request process to knowledgeable individuals within the EDC.

- d) The information that the EDC makes available to potential applicants can include previously existing EDC studies that help applicants understand whether it is feasible to interconnect a distributed generation facility at a particular point on the EDC's electric distribution system. However, the EDC can refuse to provide the information to the extent that providing it violates security requirements or confidentiality agreements, or it is contrary to law or State or federal regulations. In appropriate circumstances, the EDC may require a confidentiality agreement prior to release of this information.
- e) When an interconnection request is deemed complete by the EDC, any modification that is not agreed to by the EDC requires submission of a new interconnection request.
- f) When an applicant is not currently a customer of the EDC at the proposed site, the applicant shall provide, upon EDC request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract.
- g) To minimize the cost to interconnect multiple distributed generation facilities, the EDC or the applicant may propose a single point of interconnection for multiple distributed generation facilities located at an interconnection customer site that is on contiguous property. If the applicant rejects the EDC's proposal for a single point of interconnection, the applicant shall pay any additional cost to provide a separate point of interconnection for each distributed generation facility. If the EDC, without written technical explanation, rejects the customer's proposal for a single point of interconnection, the EDC shall pay any additional cost to provide separate points of interconnection for each distributed generation facility.
- h) To protect the safety of the EDC's employees or the reliability of the distribution system, EDCs may require that distributed generation facilities have the capability to be isolated from the EDC. For distributed generation facilities interconnecting to a primary line, the isolation shall be by means of a lockable, visible-break isolation device accessible by the EDC. For distributed generation facilities interconnecting to a secondary line, the isolation shall be by means of a lockable isolation device whose status is indicated and is accessible by the EDC. For distributed generation facilities interconnecting to a secondary line through a self-

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

contained meter, the EDC's removal of the self-contained electric meter may satisfy this capability. The isolation device shall be installed, owned and maintained by the owner of the distributed generation facility and located electrically between the distributed generation facility and the point of interconnection. A draw-out type of circuit breaker accessible to the EDC with a provision for padlocking at the drawn-out position satisfies the requirement for an isolation device.

- i) The interconnection customer shall allow the EDC to isolate the distributed generation facility. An interconnection customer may elect to provide the EDC with access to an isolation device that is contained in a building or area that may be unoccupied and locked or not otherwise accessible to the EDC by installing a lockbox provided by the EDC that allows ready access to the isolation device. The lockbox shall be in a location determined by the EDC to be accessible by the EDC. The interconnection customer shall permit the EDC to affix a placard in a location of its choosing that provides instructions to EDC operating personnel for accessing the isolation device. If the EDC needs to isolate the distributed generation facility, the EDC shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility.
- j) Any metering required for a distributed generation interconnection shall be installed, operated, and maintained in accordance with applicable EDC tariffs and agreements. Any such metering requirements shall be identified in the standard distributed generation interconnection agreement executed between the interconnection customer and the EDC.
- k) EDC monitoring and control of distributed generation facilities are permitted only when the nameplate rating is greater than 2 MVA. Monitoring and control requirements shall be consistent with the EDC's published requirements and shall be clearly identified in the interconnection agreement between the interconnection customer and the EDC. Transfer trip shall not be considered EDC monitoring and control when required and installed to protect the electric distribution system or an affected system against adverse system impacts.
- l) The EDC may require a witness test after the distributed generation facility is constructed. The applicant shall provide the EDC with at least 15 business ~~days~~ days notice of the planned commissioning test for the distributed generation facility. The applicant and EDC shall schedule the witness test at a mutually agreeable time. If the witness test results are not acceptable to the EDC, the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

applicant shall be granted 30 business days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the EDC and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the EDC; subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the EDC's satisfaction, the interconnection request shall be deemed withdrawn. Even if the EDC or an entity approved by the EDC does not witness a commissioning test, the applicant remains obligated to satisfy the interconnection test specifications and requirements set forth in IEEE Standard 1547 Section 5. The applicant shall, if requested by the EDC, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

- m) Each EDC shall allow interconnection applications to be submitted through the EDC's website or via another website if a link is provided on the EDC's website.
- n) Each EDC shall dedicate a page on their website to interconnection procedures, that shall include:
 - 1) the EDC's interconnection procedures and attachments in an electronically searchable format;
 - 2) the EDC's interconnection application forms in a format that allows for electronic entry of data;
 - 3) the EDC's interconnection agreements; and
 - 4) the EDC's point of contact for questions about interconnection and submission of interconnection requests, including e-mail and phone number.
- o) Each EDC shall allow electronic signatures to be used for interconnection applications.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.70 Lab-Certified Equipment

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

An interconnection request may be eligible for expedited interconnection review under Section 466.90 if the distributed generation facility uses interconnection equipment that is lab-certified. Interconnection equipment shall be deemed to be lab-certified upon establishment of the following:

- a) The interconnection equipment has been successfully tested in accordance with IEEE Standard 1547.1, and it complies with the appropriate codes and standards referenced in subsection (f) as demonstrated by any NRTL recognized by OSHA to test and certify interconnection equipment; and
- b) The interconnection equipment has been labeled and is publicly listed by the NRTL at the time of the interconnection application; and
- c) The NRTL testing the interconnection equipment makes all test standards and procedures that it used to perform equipment certification available, and, with applicant approval, the test data itself. The NRTL may make this information readily available by publishing it on its web site and by encouraging it to be included in the manufacturer's literature accompanying the equipment; and
- d) The applicant's use of the interconnection equipment falls within the use or uses for which the interconnection equipment was labeled and listed by the NRTL; and
- e) The generator, other electric sources, and/or interface components being utilized are compatible with the interconnection equipment and are consistent with the testing and listing specified by the NRTL for this type of interconnection equipment; and
- f) To meet the requirements for lab certification, interconnection equipment shall be evaluated by an NRTL in accordance with the following codes and standards:
 - 1) IEEE 1547 Standard for Interconnecting Distributed Resources with Electric Power Systems (including use of IEEE 1547.1 testing protocols to establish conformity);
 - 2) UL 1741 Inverters, Converters, ~~and~~ Controllers and Interconnection System Equipment for Use With~~Requirement with~~ Distributed Energy Resources; and

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 3) NFPA 70, National Electrical Code (~~2014~~2008), National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02169-7471. This incorporation does not include any later amendments or editions; and
- g) Lab-certified interconnection equipment shall not require further design testing or production testing, as specified by IEEE Standard 1547 Sections 5.1 and 5.2, or additional interconnection equipment modification to meet the requirements for expedited review; however, nothing in this Section shall preclude the need for an interconnection installation evaluation, commissioning tests or periodic testing as specified by IEEE Standard 1547 Sections 5.3, 5.4 and 5.5 or for a witness test conducted by an EDC.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.80 Determining the Review Level

An EDC shall determine whether an interconnection request should be processed under the Level 1, 2, 3 or 4 procedures by using the following screens:

- a) An EDC shall use Level 1 procedures to evaluate all interconnection requests to connect a distributed generation facility when:
 - 1) The applicant has filed a Level 1 application; and
 - 2) The distributed generation facility has ~~an~~ nameplate capacity of 25 kW~~10 kVA~~ or less; and
 - 3) The distributed generation facility is inverter-based; and
 - 4) The customer interconnection equipment proposed for the distributed generation facility is lab-certified;~~;~~ ~~and~~
 - 5) ~~No construction of facilities by the EDC shall be required to accommodate the distributed generation facility.~~
- b) An EDC shall use Level 2 procedures for evaluating interconnection requests when:
 - 1) The applicant has filed a Level 2 application; ~~and~~

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) For certified inverter-based systems, the size limit varies according to the voltage of the line at the proposed point of interconnection. The nameplate capacity rating is 2 MVA or less; and

<u>Line Voltage</u>	<u>Level 2 Eligibility</u>
<u>< 5 kV</u>	<u>≤ 500 kW</u>
<u>≥ 5 kV and < 15 kV</u>	<u>≤ 3 MW</u>
<u>≥ 15 kV and < 30 kV</u>	<u>≤ 4 MW</u>
<u>≥ 30 kV and ≤ 69 kV</u>	<u>≤ 5 MW</u>

- 3) All distributed generation facilities connecting to lines greater than 69 kV are ineligible for Level 2 review regardless of size. All synchronous and induction machines must be no larger than 2 MW to be eligible;

- ~~43)~~ The interconnection equipment proposed for the distributed generation facility is lab-certified; and

- ~~54)~~ The proposed interconnection is to a radial distribution circuit or a spot network limited to serving one customer.; ~~and~~

- ~~5)~~ No construction of facilities by the EDC shall be required to accommodate the distributed generation facility, other than minor modifications provided for in Section 466.100(f).

- c) An EDC shall use Level 3 review procedures for evaluating interconnection requests to area networks and radial distribution circuits where power will not be exported based on the following criteria.

- 1) For interconnection requests to the load side of an area network, the following criteria shall be satisfied to qualify for a Level 3 expedited review:

- A) The applicant has filed a Level 3 application; and

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- B) The nameplate capacity of the distributed generation facility is less than or equal to 50 kW~~50 kVA~~; and
 - C) The proposed distributed generation facility uses a lab-certified inverter-based equipment package; and
 - D) The distributed generation facility uses reverse power relays and/or other protection functions that prevent the export of power into the area network; and
 - E) The aggregate of all generation on the area network does not exceed the lower of 5% of an area network's maximum load or 50 kilovolt amperes (kVA)~~;~~ ~~and~~
 - ~~F) No construction of facilities by the EDC shall be required to accommodate the distributed generation facility.~~
- 2) For interconnection requests to a radial distribution circuit, the following criteria shall be satisfied to qualify for a Level 3 expedited review:
- A) The applicant has filed a Level 3 application; and
 - B) The aggregated total of the nameplate capacity of all of the generators on the circuit, including the proposed distributed generation facility, is 10 MVA or less; and
 - C) The distributed generation facility will use reverse power relays or other protection functions that prevent power flow onto the electric distribution system; and
 - D) The distributed generation facility is not served by a shared transformer~~;~~ ~~and~~
 - ~~E) No construction of facilities by the EDC on its own system shall be required to accommodate the distributed generation facility.~~
- d) An EDC shall use the Level 4 study review procedures for evaluating interconnection requests when:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) The applicant has filed a Level 4 application; and
- 2) The nameplate capacity of the small generation facility is 10 MVA or less; and
- 3) Not all of the interconnection equipment or distributed generation facilities being used for the application is lab-certified.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.90 Level 1 Expedited Review

An EDC shall use the Level 1 interconnection review procedures for an interconnection request that meet the requirements specified in Section 466.80(a). An EDC may not impose additional requirements on Level 1 reviews that are not specifically authorized under this Section unless the applicant agrees.

- a) The EDC shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:
 - 1) For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, may not exceed 15% of the maximum load normally supplied by the distribution circuit.
 - 2) The total capacity of distributed generation facilities connected on the load side of spot network protectors, including the proposed facility, shall not exceed 5% of the spot network's maximum load or 50 kVA, whichever is less.
 - 3) When a proposed distributed generation facility is to be interconnected on a single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, shall not exceed 20 kVA.
 - 4) When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240 volt service, its addition

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

may not create an imbalance between the two sides of the 240 volt service of more than 20% of the nameplate rating of the service transformer.

~~5) The EDC shall not be required to construct any facilities on its own system to accommodate the distributed generation facility's interconnection.~~

b) The Level 1 interconnection shall use the following procedures:

- 1) The applicant submits an interconnection request using the appropriate form along with the Level 1 application fee (see Appendix A).
- 2) Within 7 business days after receipt of the interconnection request, the EDC shall inform the applicant whether the interconnection request is complete or not. If the request is incomplete, the EDC shall specify what information is missing and the applicant has 10 business days after receiving notice from the EDC to provide the missing information or the interconnection request shall be deemed withdrawn.
- 3) Within 15 business days after the EDC notifies the applicant that its interconnection request is complete, the EDC shall verify whether the distributed generation facility passes all the relevant Level 1 screens.
- 4) If the applicant passes the Level 1 screens and meets the conditions for approval by the EDC, the following timeframes shall apply: If the EDC determines and demonstrates that a distributed generation facility does not pass all relevant Level 1 screens, the EDC shall provide a letter to the applicant explaining the reasons that the facility did not pass those screens.
 - A) If the proposed interconnection requires no construction of facilities by the EDC on its own system, the EDC shall send the applicant an executed "Conditional Agreement to Interconnect Distributed Generation Facility" (Appendix A) within 5 business days after notification of the Level 1 review results.
 - B) If the proposed interconnection requires only minor system modifications, the EDC shall notify the applicant of what requirement when it provides the Level 1 results. The applicant must inform the EDC if the applicant elects to continue the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

application. If the applicant makes such an election and pays the fees specified in the EDC's tariff, the EDC shall provide a standard distributed generation interconnection agreement (see Appendix D), along with a non-binding good faith cost estimate and construction schedule for those upgrades, to the applicant within 30 business days after the EDC receives such an election and the payment of the fee.

- C) If the proposed interconnection requires more than minor system modifications, the EDC shall notify the applicant of that requirement when it provides the Level 1 results. The applicant must inform the EDC if the applicant elects to proceed with the proposed interconnection. If the applicant makes such an election, the EDC may elect to:
- i) provide a standard distributed generation interconnection agreement (see Appendix D), along with a non-binding good faith cost estimate and construction schedule for those upgrades, within 45 business days after the EDC receives such an election and the applicant pays the fee specified in the EDC's tariff; or
 - ii) notify the applicant that an interconnection facilities study must be performed pursuant to Section 466.120(e)(3). If the applicant elects to proceed with an interconnection facilities study, the EDC shall proceed with the interconnection facilities study according to the timeframes and process in Section 466.120(e)(3).
- 5) Upon approving~~Otherwise, the EDC shall approve~~ the interconnection request pursuant to subsection (b)(4), the EDC shall~~and~~ provide to the applicant a signed version of the "Conditional Agreement to Interconnect Distributed Generation Facility" in Appendix A subject to the following conditions:
- A) The distributed generation facility has been approved by local or municipal electric code officials with jurisdiction over the interconnection;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- B) A certificate of completion (see Appendix B) has been returned to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities;
- C) The witness test has been successfully completed if required by the EDC or if the witness test has been waived according to of Appendix A(2)(c)(ii); and
- D) The applicant has signed a standard distributed generation interconnection agreement (see Appendix A). When an applicant does not sign the agreement within 30 business days after receipt of the agreement from the EDC, the interconnection request is deemed withdrawn unless the applicant requests to have the deadline extended for no more than 15 business days. An initial request for extension shall not be denied by the EDC, but subsequent requests may be denied.
- 6) If the EDC determines and demonstrates that a distributed generation facility does not pass all relevant Level 1 screens, the EDC shall provide a letter to the applicant explaining the reasons that the facility did not pass those screens.
- 76) If a distributed generation facility is not approved under a Level 1 review, and the EDC's reasons for denying Level 1 status are not subject to dispute, the applicant may submit a new interconnection request for consideration under Level 2, Level 3 or Level 4 procedures. The queue position assigned to the Level 1 interconnection request shall be retained, provided that the new interconnection request is made by the applicant within 15 business days after notification that the current interconnection request is denied.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.100 Level 2 Expedited Review

An EDC shall use the Level 2 review procedure for interconnection requests that meet the Level 2 criteria in Section 466.80(b). An EDC may not impose additional requirements for Level 2 reviews that are not specifically authorized under this Section unless the applicant agrees.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- a) The EDC shall evaluate the potential for adverse system impacts using the following screens, which shall be satisfied:
- 1) For interconnection of a proposed distributed generation facility to a radial distribution circuit, the total distributed generation connected to the distribution circuit, including the proposed distributed generation facility, may not exceed 15% of the maximum normal load normally supplied by the distribution circuit
 - 2) For interconnection of a proposed distributed generation facility to the load side of spot network protectors, the proposed distributed generation facility shall utilize an inverter-based equipment package. The customer interconnection equipment proposed for the distributed generation facility must be lab-certified and, when aggregated with other generation, may not exceed 5% of a spot network's maximum load.
 - 3) The proposed distributed generation facility, in aggregation with other generation on the distribution circuit, may not contribute more than 10% to the distribution circuit's maximum fault current at the point on the primary line nearest the point of interconnection.
 - 4) The proposed distributed generation facility, in aggregate with other generation on the distribution circuit, shall not cause any distribution protective devices and equipment including substation breakers, fuse cutouts, and line reclosers, or other customer equipment on the electric distribution system to be exposed to fault currents exceeding 90% of their short circuit interrupting capability. The interconnection may not occur under Level 2 if equipment on the EDC's distribution circuit is already exposed to fault currents of between 90% and 100% of the EDC's equipment short circuit interrupting capability. However, if fault currents exceed 100% of the EDC's equipment short circuit interrupting capability even without the distributed generation being interconnected, the EDC shall replace the equipment at its own expense, and interconnection may proceed under Level 2.
 - 5) When a customer-generator facility is to be connected to 3-phase, 3-wire primary EDC distribution lines, a 3-phase or single-phase generator shall be connected phase-to-phase.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 6) When a customer-generator facility is to be connected to 3-phase, 4-wire primary EDC distribution lines, a 3-phase or single phase generator shall be connected line-to-neutral and shall be grounded.
 - 7) When the proposed distributed generation facility is to be interconnected on single-phase shared secondary line, the aggregate generation capacity on the shared secondary line, including the proposed distributed generation facility, may not exceed 20 kVA.
 - 8) When a proposed distributed generation facility is single-phase and is to be interconnected on a center tap neutral of a 240 volt service, its addition may not create an imbalance between the two sides of the 240 volt service of more than 20% of the nameplate rating of the service transformer.
 - 9) A distributed generation facility, in aggregate with other generation interconnected to the distribution side of a substation transformer feeding the circuit where the distributed generation facility proposes to interconnect, may not exceed 10 MVA in an area where there are known or posted transient stability limitations to generating units located in the general electrical vicinity.
 - ~~10) Except as permitted by additional review in Section 466.100(f), the EDC shall not be required to construct any facilities on its own system to accommodate the distributed generation facility's interconnection.~~
- b) The Level 2 interconnection shall use the following procedures:
- 1) The applicant submits an interconnection request using the appropriate form and the Level 2 application fee (see Appendix C).
 - 2) Within 10 business days after receiving the interconnection request, the EDC shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the EDC shall specify what materials are missing and the applicant has 10 business days to provide the missing information or the interconnection request shall be deemed withdrawn.
 - 3) After an interconnection request is deemed complete, the EDC shall assign a queue position based upon the date that the interconnection request is

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

determined to be complete. The EDC shall then inform the applicant of its queue position.

- 4) If, after determining that the interconnection request is complete, the EDC determines that it needs additional information to evaluate the distributed generation facility's adverse system impact, it shall request this information. The EDC may not restart the review process or alter the applicant's queue position because it requires the additional information. The EDC can extend the time to finish its evaluation only to the extent of the delay required for receipt of the additional information. If the additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.
- 5) Within 20 business days after the EDC notifies the applicant it has received a completed interconnection request, the EDC shall:
 - A) Evaluate the interconnection request using the Level 2 screening criteria.
 - B) Provide the applicant with the EDC's evaluation, including a written technical explanation. If an EDC does not have a record of receipt of the interconnection request and the applicant can demonstrate that the original interconnection request was delivered, the EDC shall expedite its review to complete the evaluation of the interconnection request within 20 business days after applicant's demonstration.
- c) When an EDC determines that the interconnection request passes the Level 2 screening criteria contained in subsection (a), the interconnection request passes the Supplemental Review contained in subsection (f), or the EDC determines that the distributed generation facility can be interconnected safely and will not cause adverse system impacts, even if it fails one or more of the Level 2 screening criteria, it shall provide the applicant with a standard distributed generation interconnection agreement (see Appendix D) within the following timeframes: ~~on the day the EDC makes its determination.~~
 - 1) If the proposed interconnection requires no construction of facilities by the EDC on its own system, the interconnection agreement shall be provided within 5 business days after the notification of Level 2 review results.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) If the proposed interconnection requires only minor system modifications, the EDC shall notify the applicant of the required minor system modifications when it provides the Level 2 results. The applicant must inform the EDC if the applicant elects to continue the application and pay the fee specified in the EDC's tariff. If the applicant makes such an election, the EDC shall provide to the applicant the interconnection agreement, along with a non-binding good faith cost estimate and construction schedule for the required upgrades within 30 business days after the EDC receives such an election and the payment of the fee.
- 3) If the proposed interconnection requires more than minor system modifications, the EDC shall notify the applicant of that requirement when it provides the Level 2 or supplemental review results. The applicant must inform the EDC if the applicant elects to continue the application. If the applicant makes such an election, the EDC may elect to:
 - A) provide a standard distributed generation interconnection agreement (see Appendix D), along with a non-binding good faith cost estimate and construction schedule for the required upgrades within 45 business days after the EDC receives such an election and the applicant pays the fee specified in the EDC's tariff; or
 - B) notify the applicant that an interconnection facilities study under Section 466.120(e)(3) must be performed to determine the necessary upgrades. If the applicant elects to proceed with an interconnection facilities study, the EDC shall proceed with the interconnection facilities study according to the timeframes and process in Section 466.120(e)(3).
- d) Within 30 business days after receipt of the standard distributed generation interconnection agreement, the applicant shall sign and return the agreement to the EDC. If the applicant does not sign and return the agreement within 30 business days, the interconnection request shall be deemed withdrawn unless the applicant requests a 15 business day extension in writing. The initial request for extension may not be denied by the EDC. When the EDC constructs an additional review under the provisions of subsection (f), the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the standard distributed generation interconnection agreement.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- e) The standard distributed generation interconnection agreement is not final until:
- 1) All requirements in the standard distributed generation interconnection agreement are satisfied;
 - 2) The distributed generation facility is approved by the electric code officials with jurisdiction over the interconnection;
 - 3) The applicant provides a certificate of completion (see Appendix B) to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
 - 4) The witness test is successfully completed if required by the EDC or if the witness test is waived according to Article 2.1.1 of Appendix D.
- f) ~~When additional review may be appropriate when~~ a distributed generation facility fails to meet one or more of the Level 2 screens contained in subsection (a), the. ~~The EDC shall offer to perform a supplemental review in accordance with the following subsections and additional review to determine whether there are minor modifications to the distributed generation facility or electric distribution system that would enable the interconnection to be made safely and so that it will not cause adverse system impacts. The EDC shall provide the applicant with a nonbinding estimate for the costs of the supplemental review, additional review and the costs of minor modifications to the electric distribution system. The EDC shall undertake the supplemental review, additional review only after the applicant pays for the supplemental review, additional review. The EDC shall undertake the modifications only after the applicant pays for the modifications.~~
- 1) If the applicant accepts the offer of a supplemental review, the applicant shall agree in writing and pay the amount of the EDC's good faith estimate of the costs of that review, both within 15 business days after the offer. If the written agreement and payment have not been received by the EDC within that timeframe, the interconnection request shall be considered withdrawn by the applicant.
 - 2) The applicant may specify the order in which the EDC will complete the screens in this Section.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 3) The applicant shall be responsible for the EDC's actual costs for conducting the supplemental review. The applicant must pay any additional costs that exceed the good faith estimate within 20 business days after receipt of the invoice or resolution of any dispute. If the initial payment exceeds the invoiced actual costs, the EDC will return that excess within 20 business days after the invoice without interest.
- 4) Within 30 business days following receipt of the payment for a supplemental review, the EDC shall perform a supplemental review using the screens set forth in this subsection (f)(4); notify in writing the applicant of the results; and include with the notification copies of the analysis and data underlying the EDC's determinations under the screens.
- A) Minimum Load Screen
When 12 months of line section minimum load data (including onsite load but not station service load served by the proposed distributed generation facility) are available, the aggregate generating facility capacity on the line section is less than 100% of the minimum load for all line sections bounded by automatic sectionalizing devices upstream of the proposed distributed generation facility. If minimum load data is not available, the EDC shall include the reasons that it is unable to determine minimum load in its supplemental review results notification under this Section.
- i) The type of generation used by the proposed distributed generation facility will be taken into account when determining circuit or line section minimum load relevant to the application of this screen. Solar PV generation systems with no battery storage use daytime minimum load (i.e., 10 a.m. to 4 p.m. for fixed panel systems and 8 a.m. to 6 p.m. for PV systems utilizing tracking systems), while all other generation uses absolute minimum load.
- ii) Only the net injection into the EDC's electric system will be considered as part of the aggregate generation.
- iii) For evaluating this screen, the EDC will not include as part of the aggregate generation any existing distributed

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

generating capacity already reflected in the minimum load data.

B) Voltage and Power Quality Screen

The project, considered in aggregate with existing generation, must meet the following requirements: the voltage regulation can be maintained in compliance with relevant requirements under all system conditions; the voltage fluctuation is within the EDC's acceptable limits; and the harmonic levels meet limits recommended by IEEE Standard 519-2014: Recommended Practice and Requirements for Harmonic Control in Electric Power Systems.

C) Safety and Reliability Screen

The location of the proposed distributed generation facility and the aggregate generation capacity on the line section do not create impacts to safety or reliability that cannot be adequately addressed without application of the Level 4 process. The EDC shall give due consideration to the following and other factors in determining potential impacts to safety and reliability in applying this screen:

- i) whether the line section has significant minimum loading levels dominated by a small number of customers (e.g., several large commercial customers);
- ii) whether the loading along the line section is uniform or even;
- iii) whether the proposed distributed generation facility is located in close proximity to the substation (i.e., less than 2.5 electrical circuit miles), and whether the line section from the substation to the point of interconnection is a main line rated for normal and emergency ampacity;
- iv) whether the proposed distributed generation facility incorporates a time delay function to prevent reconnection of the generator to the system until system voltage and frequency are within normal limits for a prescribed time;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- v) whether operational flexibility is reduced by the proposed distributed generation facility, such that transfer of the line section of the distributed generation facility to a neighboring distribution circuit/substation may trigger overloads or voltage issues; and
 - vi) whether the proposed distributed generation facility employs equipment or systems certified by a nationally recognized testing laboratory (NRTL) to address technical issues such as, but not limited to, islanding, reverse power flow or voltage quality.
- 5) If the proposed interconnection passes the supplemental review screening in this Section, the EDC shall provide the applicant with an executable interconnection agreement pursuant to subsections (c), (d) and (e).
- g) If the distributed generation facility is not approved under a Level 2 review, the EDC shall provide the applicant with written notification explaining its reasons for denying the interconnection request. The applicant may submit a new interconnection request for consideration under a Level 4 interconnection review. The queue position assigned to the Level 2 interconnection request shall be retained, provided that the new interconnection request is made by the applicant within 15 business days after notification that the current interconnection request is denied.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.110 Level 3 Expedited Review

An EDC shall use the Level 3 expedited review procedure for an interconnection request that meets the criteria in Section 466.80(c) or (d). An EDC may not impose additional requirements for Level 3 reviews not specifically authorized under this section unless the applicant agrees.

- a) A Level 3 interconnection shall use the following procedures:
 - 1) The applicant submits an interconnection request using the appropriate form and the Level 3 application fee (see Appendix C).

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) Within 10 business days after receiving the interconnection request, the EDC shall inform the applicant as to whether the interconnection request is complete. If the request is incomplete, the EDC shall specify what materials are missing and the applicant has 10 business days to provide the missing information, or the interconnection request shall be deemed withdrawn.
- 3) After an interconnection request is deemed complete, the EDC shall assign a queue position to it based upon the date the interconnection request is determined to be complete. The EDC shall then inform the applicant of its queue position.
- 4) If, after determining that the interconnection request is complete, the EDC determines that it needs additional information to evaluate the distributed generation facility's adverse system impact, it shall request this information. The EDC may not restart the review process or alter the applicant's queue position because it requires the additional information. The EDC can extend the time to finish its evaluation only to the extent of the delay is required for receipt of the additional information. If this additional information is not provided by the applicant within 15 business days, the interconnection request shall be deemed withdrawn.
- 5) Interconnection requests meeting the requirements set forth in Section 466.80(c)(1) for non-exporting distributed generation facilities interconnecting to an area network shall be presumed to be appropriate for interconnection. The EDC shall process the interconnection request to area networks using the following procedures:
 - A) The EDC shall evaluate the interconnection request under Level 2 interconnection review procedures as set forth in Section 466.100(a) except that the EDC has 25 business days to evaluate the interconnection request against the screens to determine whether interconnecting the distributed generation facility to the EDC's area network has any potential adverse system impacts.
 - B) If the Level 2 screens for area networks identify potential adverse system impacts, the EDC may determine, at its sole discretion, that it is inappropriate for the distributed generation facility to interconnect to the area network under Level 3 review, and the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

interconnection request is denied. The applicant may submit a new interconnection request for consideration under Level 4 procedures at the queue position assigned to the Level 3 interconnection request, if the [new interconnection](#) request is made within 15 business days after notification that the current application is denied.

- 6) For interconnection requests that meet the requirements of Section 466.80(c)(2) for non-exporting distributed generation facilities interconnecting to a radial distribution circuit, the EDC shall evaluate the interconnection request under the Level 2 expedited review in Section 466.100(a).
- b) For a distributed generation facility that satisfies the criteria in Section 466.110(a)(5) or (a)(6), the EDC shall approve the interconnection request and provide a standard interconnection agreement (see Appendix D) for the applicant to sign [within the following timeframes](#):~~on the day the EDC makes its determination.~~
 - 1) [If the proposed interconnection requires no construction of facilities by the EDC on its own system, the interconnection agreement shall be provided within 5 business days after the notification of Level 3 review results.](#)
 - 2) [If the proposed interconnection requires only minor system modifications, the EDC shall notify the applicant of that requirement when it provides the Level 3 results. The applicant must inform the EDC if the applicant elects to continue the application and pay the fee specified in the EDC's tariff. If the applicant makes such an election, the EDC shall provide the interconnection agreement, along with a non-binding good faith cost estimate and construction schedule for those upgrades, to the applicant within 30 business days after the EDC receives such an election and the payment of the fee.](#)
 - 3) [If the proposed interconnection requires more than minor system modifications, the EDC shall notify the applicant of that requirement when it provides the Level 3 results. The applicant must inform the EDC if the applicant elects to proceed with the interconnection. If the applicant makes such an election, the EDC may elect to:](#)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- A) provide a standard distributed generation interconnection agreement (see Appendix D), along with a non-binding good faith cost estimate and construction schedule for those upgrades within 45 business days after the EDC receives such an election and the applicant pays the fee specified in the EDC's tariff; or
- B) notify the applicant that an interconnection facilities study must be performed pursuant to Section 466.120(e)(3). If the applicant elects to proceed with an interconnection facilities study, the EDC shall proceed with the interconnection facilities study according to the timeframes and process in Section 466.120(e)(3).
- c) Within 30 business days after receipt of the standard distributed generation interconnection agreement, the applicant shall complete, sign and return the agreement to the EDC. If the applicant does not sign the standard distributed generation interconnection agreement within 30 business days, the request shall be deemed withdrawn, unless the applicant requests a 15 business day extension in writing. An initial request for extension may not be denied by the EDC. After the standard distributed generation interconnection agreement is signed by the parties, interconnection of the distributed generation facility shall proceed according to any milestones agreed to by the parties in the standard distributed generation interconnection agreement.
- d) The interconnection agreement shall not be final until:
- 1) All requirements in the interconnection agreement are satisfied; and
 - 2) The distributed generation facility is approved by the electric code officials with jurisdiction over the distributed generation facility; and
 - 3) The applicant provides a certificate of completion (see Appendix B) to the EDC; and
 - 4) The witness test is successfully completed, if required by the EDC or if the witness test is waived according to Article 2.1.1 of Appendix D.
- e) If the distributed generation facility is not approved under a Level 3 review, the EDC shall provide the applicant with written notification explaining its reasons for denying the interconnection request. The applicant may submit a new

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

interconnection request for consideration under a Level 4 interconnection review. The queue position assigned to the Level 3 interconnection request shall be retained, provided that the [new interconnection](#) request is made within 15 business days after notification that the current interconnection request is denied.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

Section 466.120 Level 4 Review

An EDC shall use the Level 4 study review procedures for an interconnection request that meets the criteria in Section 466.80(d).

- a) The applicant submits an interconnection request using the appropriate form, along with the Level 4 application fee (see Appendix C).
- b) Within 10 business days after receipt of an interconnection request, the EDC shall notify the applicant whether the request is complete. When the interconnection request is not complete, the EDC shall provide the applicant with a written list detailing the information required to complete the interconnection request. The applicant has 10 business days to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.
- c) After an interconnection request is deemed complete, the EDC shall assign a queue position to it based upon the date the interconnection request is determined to be complete. When assigning a queue position, an EDC may consider whether there are any other interconnection projects on the same distribution circuit. If there are other interconnection projects on the same distribution circuit, the EDC may consider them together. If an EDC assigns a queue position based on the existence of interconnection projects on the same distribution circuit, the EDC shall notify the applicant of that fact when it assigns the queue position. The queue position of an interconnection request is used to determine the cost responsibility for the facilities necessary to accommodate the interconnection. The EDC shall notify the applicant as to its position in the queue. If the interconnection request is subsequently amended, it shall receive a new queue position based on the date that it was amended.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- d) After the interconnection request has been assigned to the queue, the following procedures shall be followed in performing a Level 4 study review:
- 1) By mutual agreement of the parties, the scoping meeting, interconnection feasibility study, interconnection impact study, or interconnection facilities study provided for in a Level 4 review and discussed in this Section may be waived or combined.
 - 2) If agreed to by the parties, a scoping meeting on a mutually agreed upon date and time shall be held, after the EDC has notified the applicant that the Level 4 interconnection request is deemed complete, or the applicant has requested that its interconnection request proceed under Level 4 review after failing the requirements of a Level 2 or Level 3 review. The meeting's purpose is to review the interconnection request, existing studies relevant to the interconnection request, and the results of the Level 1, Level 2 or Level 3 screening criteria.
 - 3) When the parties agree that an interconnection feasibility study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after the receipt of a complete interconnection request or, if held, the scoping meeting, an interconnection feasibility study agreement (see Appendix E), including an outline of the scope of the study and an estimate of the cost to perform the study. If the applicant does not sign and return the study agreement within 15 business days, the application shall be deemed withdrawn.
 - 4) When the parties agree that an interconnection feasibility study is not required, the EDC shall provide to the applicant, no later than 10 business days after the receipt of a complete interconnection request or, if held, the scoping meeting, an interconnection system impact study agreement (see Appendix F), including an outline of the scope of the study and an estimate of the cost to perform the study. If the applicant does not sign and return the study agreement within 15 business days, the application shall be deemed withdrawn.
 - 5) If the parties agree that neither an interconnection feasibility study nor a system impact study is required, the EDC shall provide to the applicant, no later than 10 business days after receipt of a complete interconnection

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

request or, if held, the scoping meeting, an interconnection facilities study agreement (see Appendix G) including an outline of the scope of the study and an estimate of the cost to perform the study. If the applicant does not sign and return the study agreement within 15 business days, the application shall be deemed withdrawn.

- e) The following guidelines shall govern all required interconnection studies:
- 1) An interconnection feasibility study shall include any necessary analyses for the purpose of identifying a potential adverse system impact to the EDC's electric distribution system that would result from the interconnection from among the following:
 - A) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection.
 - B) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection.
 - C) Initial review of grounding requirements and system protection.
 - D) Description and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to the EDC's electric distribution system in a safe and reliable manner.
 - E) If an applicant requests that the interconnection feasibility study evaluate multiple potential points of interconnection, additional evaluations may be required. Additional evaluations shall be paid for by the applicant.
 - F) An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact, but the EDC is able to identify a remedy without the need for an interconnection system impact study.
 - G) Each party can require that the standard form of interconnection feasibility study agreement approved by the Commission be used. If both parties agree, however, an alternative form can be used.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the EDC's electric distribution system. The study identifies and details the system impacts that interconnecting the distributed generation facility to the distribution system has if there are no system modifications. It focuses on the potential or actual adverse system impacts identified in the interconnection feasibility study, including those that were identified in the scoping meeting. The study shall consider all other distributed generating facilities that, on the date the interconnection system impact study is commenced, are directly interconnected with the EDC's system, have a pending higher queue position to interconnect to the electric distribution system, or have signed an interconnection agreement.
 - A) A distribution interconnection system impact study shall be performed when a potential distribution system adverse system impact is identified in the interconnection feasibility study. The EDC shall send the applicant an interconnection system impact study agreement within 10 business days after transmittal of the interconnection feasibility study report. The agreement shall include an outline of the scope of the study and a non-binding estimate of the cost to perform the study. The impact study shall include any pertinent elements from among the following:
 - i) A load flow study;
 - ii) Identification of affected systems;
 - iii) An analysis of equipment interrupting ratings;
 - iv) A protection coordination study;
 - v) Voltage drop and flicker studies;
 - vi) Protection and set point coordination studies;
 - vii) Grounding reviews;
 - viii) Impact on system operation.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- B) An interconnection system impact study shall consider any necessary criteria from among the following:
- i) A short circuit analysis;
 - ii) A stability analysis;
 - iii) Alternatives for mitigating adverse system impacts on affected systems;
 - iv) Voltage drop and flicker studies;
 - v) Protection and set point coordination studies;
 - vi) Grounding reviews.
- C) The final interconnection system impact study shall provide the following:
- i) The underlying assumptions of the study;
 - ii) The results of the analyses;
 - iii) A list of any potential impediments to providing the requested interconnection service;
 - iv) Required distribution upgrades; and
 - v) A non-binding estimate of cost and time to construct any required distribution upgrades.
- D) The parties may use an interconnection impact study agreement as approved by the Commission. If both parties agree, however, an alternative form can be used.
- E) The parties may use an interconnection impact study agreement as approved by the Commission. If both parties agree, however, an alternative form can be used.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 3) The interconnection facilities study shall be conducted as follows:
- A) A report shall be transmitted to the applicant with an interconnection facilities study agreement, that includes an outline of the scope of the study and a non-binding estimate of the cost to perform the study within 10 business days after completion of the interconnection system impact study, if performed, or within 10 business days after the applicant notifies the EDC pursuant to Section 466.90(b)(4)(C), Section 466.100(c)(3), or Section 466.110(b)(3).
 - B) The interconnection facilities study shall estimate the cost of the equipment, engineering, procurement and construction work, including overheads, needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study. The interconnection facilities study shall identify:
 - i) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;
 - ii) The nature and estimated cost of the EDC's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and
 - iii) An estimate for the time required to complete the construction and installation of the facilities.
 - C) The EDC may agree to permit an applicant to separately arrange for a third party to design and construct the required interconnection facilities. In such a case, when the applicant agrees to separately arrange for design and construction, and to comply with security and confidentiality requirements, the EDC shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the EDC's specifications.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- D) Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the EDC shall provide a standard distributed generation interconnection agreement (see Appendix D) for the applicant to sign the day the EDC makes its determination.
 - E) In the event that distribution upgrades are identified in the impact study that shall be added only in the event that higher-queued customers not yet interconnected eventually complete and interconnect their generation facilities, the applicant may elect to interconnect without paying for such upgrades at the time of the interconnection, provided that it agrees to pay for such upgrades at the time the higher-queued customer is ready to interconnect. If the applicant does not pay for such upgrades at that time, the EDC shall require the applicant to immediately disconnect its distribution generation facility to accommodate the higher-queued customer.
 - F) The parties may use an interconnection facilities study agreement approved by the Commission. If both parties agree, however, an alternative form can be used.
- f) When an EDC determines, as a result of the studies conducted under a Level 4 review, that it is appropriate to interconnect the distributed generation facility, the EDC shall provide the applicant with a standard distributed generation interconnection agreement. If the interconnection request is denied, the EDC shall provide the applicant with a written explanation as to its reasons for denying interconnection. If denied, the interconnection request does not retain its position in the queue.
- g) Within 30 business days after receipt of the standard distributed generation interconnection agreement, the applicant shall provide all necessary information required of the applicant by the agreement, and the EDC shall develop all other information required of the EDC by the agreement. After completing the agreement with the additional information, the applicant shall sign and return the agreement to the EDC. If the applicant does not sign and return the agreement within 30 business days after its completion, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

extended by no more than 15 business days. The initial request for extension may not be denied by the EDC. If the applicant does not sign the agreement after the 15 business day extension, the interconnection request shall be deemed withdrawn. If withdrawn, the interconnection request does not retain its position in the queue. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the standard distributed generation interconnection agreement.

- h) The standard distributed generation interconnection agreement is not final until:
- 1) The requirements of the interconnection agreement are satisfied; and
 - 2) The distributed generation facility is approved by electric code officials with jurisdiction over the interconnection; and
 - 3) The applicant provides a certificate of completion (see Appendix B) to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
 - 4) The witness test is successfully completed if required by the EDC ~~or~~ if the witness test is waived according to Article 2.1.1 of Appendix D.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.APPENDIX A Level 1 Application and Contract

**Illinois Standard Distributed Generation Interconnection
Level 1
Interconnection Request Application Form and
Conditional Agreement to Interconnect
(Lab-Certified Inverter-Based Distributed Generation Facilities 25 kW-10 kVA and
Smaller)**

AN APPLICATION FEE OF \$50.00 MUST BE SUBMITTED WITH THE APPLICATION.

Interconnection Applicant Contact Information

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Alternate Contact Information (if different from Applicant)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Equipment Contractor

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Electrical Contractor (if Different from Equipment Contractor):

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

License number: _____

Active License? Yes No

Is the Interconnection Customer requesting Net Metering in accordance with 83 Ill. Adm. Code 465?

Yes No

Distributed Generation Facility ("Facility") Information

Facility Address: _____

City: _____ State: _____ Zip Code: _____

Electric Distribution Company (EDC) serving Facility site: _____

Electric Supplier (if different from EDC): _____

Account Number of Facility site (existing EDC customers): _____

Inverter Manufacturer: _____ Model: _____

Is the inverter lab-certified as that term is defined in the Illinois Distributed Generation Interconnection Standard? Yes No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

(If yes, attach manufacturer's technical specifications and label information from a nationally recognized testing laboratory.)

Generation Facility Nameplate Rating: _____ (kW) _____ (kVA) _____ (AC Volts)

Prime Mover: Photovoltaic Reciprocating Engine Fuel Cell
Turbine Other _____

Energy Source: Solar Wind Hydro Diesel
Natural Gas Fuel Oil Other _____

Commissioning Date: _____

(If the Commissioning Date changes, the interconnection customer must inform the EDC as soon as it is aware of the changed date.)

Insurance Disclosure

The attached terms and conditions contain provisions related to liability and indemnification, and should be carefully considered by the interconnection customer. The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance. Whenever possible, the interconnection customer shall name the EDC as an additional insured on its homeowner's insurance policy, or similar policy covering general liability.

Customer Signature

I hereby certify that: (1) I have read and understand the terms and conditions which are attached hereto by reference; (2) I hereby agree to comply with the attached terms and conditions; and (3) to the best of my knowledge, all of the information provided in this application request form is complete and true.

Applicant Signature: _____

Title: _____ Date: _____

.....

Conditional Agreement to Interconnect Distributed Generation Facility

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Receipt of the application fee is acknowledged and, by its signature below, the EDC has determined the interconnection request is complete. Interconnection of the distributed generation facility is conditionally approved contingent upon the attached terms and conditions of this Agreement, the return of the attached Certificate of Completion, duly executed verification of electrical inspection and successful witness test.

EDC Signature: _____ Date: _____

Name: _____ Title: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Terms and Conditions for Interconnection

- 1) **Construction of the Distributed Generation Facility.** The interconnection customer may proceed to construct (including operational testing not to exceed 2 hours) the distributed generation facility, once the conditional Agreement to interconnect a distributed generation facility has been signed by the EDC.
- 2) **Final Interconnection and Operation.** The interconnection customer may operate the distributed generation facility and interconnect with the EDC's electric distribution system after all of the following have occurred:
 - a) **Electrical Inspection:** Upon completing construction, the interconnection customer shall cause the distributed generation facility to be inspected by the local electrical inspection authority, who shall establish that the distributed generator facility meets local code requirements.
 - b) **Certificate of Completion:** The interconnection customer shall provide the EDC with a copy of the Certificate of Completion with all relevant and necessary information fully completed by the interconnection customer, as well as an inspection form from the local electrical inspection authority demonstrating that the distributed generation facility passed inspection.
 - c) The EDC has completed its witness test as per the following:
 - i) Within 10 business days of the commissioning date, the EDC must, upon reasonable notice and at a mutually convenient time, conduct a witness test of the distributed generation facility to ensure that all equipment has been appropriately installed and that all electrical connections have been made in accordance with the applicable codes.
 - ii) If the EDC does not perform the witness test within the 10 business days after the commissioning date or such other time as is mutually agreed to by the Parties, the witness test is deemed waived unless the EDC cannot do so for good cause. In these cases, upon EDC request, the interconnection customer shall agree to another date for the test within 10 business days after the original scheduled date.
- 3) **IEEE 1547.** The distributed generation facility shall be installed, operated and tested in accordance with the requirements of The Institute of Electrical and Electronics Engineers,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Inc. (IEEE), 3 Park Avenue New York, NY 10016-5997, Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems."

- 4) **Access.** The EDC shall have direct, unabated access to the disconnect switch and metering equipment of the distributed generation facility at all times. The EDC shall provide 5 business days notice to the customer prior to using its right of access except in emergencies.
- 5) **Metering.** Any required metering shall be installed pursuant to Illinois Commerce Commission approved tariffs.
- 6) **Disconnection.** The EDC may disconnect the distributed generation facility upon any of the following conditions, but must reconnect the distributed generation facility once the condition is cured:
 - a) For scheduled outages, provided that the distributed generation facility is treated in the same manner as EDC's load customers;
 - b) For unscheduled outages or emergency conditions;
 - c) If the distributed generation facility does not operate in the manner consistent with this Agreement;
 - d) Improper installation or failure to pass the witness test;
 - e) If the distributed generation facility is creating a safety, reliability or a power quality problem; or
 - f) The interconnection equipment used by the distributed generation facility is delisted by the Nationally Recognized Testing Laboratory that provided the listing at the time the interconnection was approved.
- 7) **Indemnification.** The interconnection customer shall indemnify and defend the EDC and the EDC's directors, officers, employees, and agents from all damages and expenses resulting from any third party claim arising out of or based upon the interconnection customer's (a) negligence or willful misconduct or (b) breach of this Agreement. The EDC shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all damages and expenses

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

resulting from a third party claim arising out of or based upon the EDC's (a) negligence or willful misconduct or (b) breach of this Agreement.

- 8) **Insurance.** The interconnection customer shall provide the EDC with proof that it has a current homeowner's insurance policy, or other general liability policy, and, when possible, the interconnection customer shall name the EDC as an additional insured on its homeowner's insurance policy, or similar policy covering general liability.
- 9) **Limitation of Liability.** Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever.
- 10) **Termination.** This Agreement may be terminated under the following conditions:
 - a) By interconnection customer – The interconnection customer may terminate this ~~Agreement~~interconnection agreement by providing written notice to the EDC. If the interconnection customer ceases operation of the distributed generation facility, the interconnection customer must notify the EDC
 - b) By the EDC – The EDC may terminate this Agreement if the interconnection customer fails to remedy a violation of terms of this Agreement within 30 calendar days after notice, or such other date as may be mutually agreed to prior to the expiration of the 30 calendar day remedy period. The termination date may be no less than 30 calendar days after the interconnection customer receives notice of its violation from the EDC.
- 11) **Modification of Distributed Generation Facility.** The interconnection customer must receive written authorization from the EDC before making any changes to the distributed generation facility that could affect the EDC's distribution system. If the interconnection customer makes such modifications without the EDC's prior written authorization, the EDC shall have the right to disconnect the distributed generation facility.
- 12) **Permanent Disconnection.** In the event the Agreement is terminated, the EDC shall have the right to disconnect its facilities or direct the interconnection customer to disconnect its distributed generation facility.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 13) **Disputes.** Each Party agrees to attempt to resolve all disputes regarding the provisions of this ~~Agreement~~[agreement](#) that cannot be resolved between the two Parties pursuant to the dispute resolution provisions found in 83 Ill. Adm. Code 466.130.
- 14) **Governing Law, Regulatory Authority, and Rules.** The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Illinois. Nothing in this Agreement is intended to affect any other agreement between the EDC and the interconnection customer.
- 15) **Survival Rights.** This Agreement shall remain in effect after termination to the extent necessary to allow or require either Party to fulfill rights or obligations that arose under the Agreement.
- 16) **Assignment/Transfer of Ownership of the Distributed Generation Facility.** This Agreement shall terminate upon the transfer of ownership of the distributed generation facility to a new owner unless the transferring owner assigns the ~~Agreement~~[agreement](#) to the new owner, the new owner agrees in writing to the terms of this Agreement, and the transferring owner so notifies the EDC in writing prior to the transfer of ownership.
- 17) **Definitions.** Any term used herein and not defined shall have the same meaning as the defined terms used in 83 Ill. Adm. Code 466 (the Illinois Distributed Generation Interconnection Standard).
- 18) **Notice.** The Parties may mutually agree to provide notices, demands, comments, or requests by electronic means such as e-mail. Absent agreement to electronic communication, or unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to Interconnection Customer:

Use the contact information provided in the interconnection customer's application. The interconnection customer is responsible for notifying the EDC of any change in the contact party information, including change of ownership.

If to EDC:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Use the contact information provided below. The EDC is responsible for notifying the interconnection customer of any change in the contact party information.

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.APPENDIX B Certificate of Completion

Certificate of Completion

(To be completed and returned to the EDC when installation is complete and final electric inspector approval has been obtained¹)

Interconnection Customer Information

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Installer

Check if owner-installed

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Final Electric Inspection and Interconnection Customer Signature

The distributed generation facility is complete and has been approved by the local electric inspector having jurisdiction. A signed copy of the electric inspector's form indicating final approval is attached. The interconnection customer acknowledges that it shall not operate the

¹ Prior to interconnected operation, the interconnection customer is required to complete this form and return it to the EDC. Use contact information provided on the EDC's web page for generator interconnection to obtain mailing address/fax number/e-mail address.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

distributed generation facility until receipt of the final acceptance and approval by the EDC as provided below.

Signed: _____ Date: _____
(Signature of interconnection customer)

Printed Name: _____

Check if copy of signed electric inspection form is attached

Check if copy of as built documents is attached (projects larger than 25 kW~~10 kVA~~ only)

.....

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Acceptance and Final Approval for Interconnection (for EDC use only)

The interconnection agreement is approved and the distributed generation facility is approved for interconnected operation upon the signing and return of this Certificate of Completion by EDC:

Electric Distribution Company waives Witness Test?

(Initial) Yes (____) No (____)

If not waived, date of successful Witness

Test: _____ Passed: (Initial) _____

EDC Signature: _____ Date: _____

Printed Name: _____ Title: _____

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.APPENDIX C Levels 2 to 4 Application

**Level 2, Level 3 & Level 4
Interconnection Request Application Form
(Greater than ~~25 kW~~ 10 kVA to 10 MVA or less)**

Interconnection Customer Contact Information

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Alternative Contact Information (if different from Customer Contact Information)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Facility Address (if different from above): _____

City: _____ State: _____ Zip Code: _____

Electric Distribution Company (EDC) Serving Facility Site: _____

Electric Supplier (if different from EDC):

Account Number of Facility Site (existing EDC customers): _____

Inverter Manufacturer: _____ Model: _____

Equipment Contractor

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

Electrical Contractor (if different from Equipment Contractor)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Facsimile Number: _____ E-Mail Address: _____

License Number: _____

Electric Service Information for Customer Facility Where Generator Will Be Interconnected

Capacity: _____ (Amps) Voltage: _____ (Volts)

Type of Service: Single Phase Three Phase

If 3 Phase Transformer, Indicate Type:

Primary Winding Wye Delta

Secondary Winding Wye Delta

Transformer Size: _____ Impedance: _____

Intent of Generation

Offset Load (Unit will operate in parallel, but will not export power to EDC)

Net Meter (Unit will operate in parallel and will export power pursuant to Illinois Net Metering or other filed tariffs)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- Wholesale Market Transaction (Unit will operate in parallel and participate in PJM or MISO markets pursuant to a PJM Wholesale Market Participation Agreement or MISO equivalent)
- Back-up Generation (Units that temporarily operate in parallel with the electric distribution system for more than 100 milliseconds)

Note: Backup units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

Generator & Prime Mover Information

ENERGY SOURCE (Hydro, Wind, Solar, Process Byproduct, Biomass, Oil, Natural Gas, Coal, etc.):		
ENERGY CONVERTER TYPE (Wind Turbine, Photovoltaic Cell, Fuel Cell, Steam Turbine, etc.):		
GENERATOR SIZE: <input type="checkbox"/> kW or <input type="checkbox"/> kVA	NUMBER OF UNITS:	TOTAL CAPACITY: <input type="checkbox"/> kW or <input type="checkbox"/> kVA
GENERATOR TYPE (Check one): <input type="checkbox"/> Induction <input type="checkbox"/> Inverter <input type="checkbox"/> Synchronous <input type="checkbox"/> Other 14504August 25, 2008		

Requested Procedure Under Which to Evaluate Interconnection Request¹

Please indicate below which review procedure applies to the interconnection request. The review procedure used is subject to confirmation by the EDC.

- Level 2** – Lab-certified interconnection equipment with an aggregate electric nameplate capacity not exceeding the specifications in Section 466.90(b)(2), less than or equal to 2 MVA. Lab-certified is defined in Section 466.30. (Application fee is \$100 plus \$1.00 per kVA.)
- Level 3** – Distributed generation facility does not export power. Nameplate capacity rating is less than or equal to 50 kW/50 kVA if connecting to area network or less

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

than or equal to ~~10 MW~~10 MVA if connecting to a radial distribution feeder. (Application fee amount is \$500 plus \$2.00 per kVA.)

- Level 4** – Nameplate capacity rating is less than or equal to 10 MVA and the distributed generation facility does not qualify for a Level 1, Level 2 or Level 3 review, or the distributed generation facility has been reviewed but not approved under a Level 1, Level 2 or Level 3 review. (Application fee amount is \$1,000 plus \$2.00 per kVA, to be applied toward any subsequent studies related to this application.)

¹ **Note:** Descriptions for interconnection review categories do not list all criteria that must be satisfied. For a complete list of criteria, please refer to 83 Ill. Adm. Code 466, Electric Interconnection of Distributed Generation Facilities.

Distributed Generation Facility Information

Commissioning Date: _____

List interconnection components/systems to be used in the distributed generation facility that are lab-certified.

Component/System	NRTL Providing Label & Listing
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

Please provide copies of manufacturer brochures or technical specifications.

Energy Production Equipment/Inverter Information:

Synchronous
 Induction
 Inverter
 Other _____

Rating: _____ kW Rating: _____ kVA

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Rated Voltage: _____ Volts

Rated Current: _____ Amps

System Type Tested (Total System): Yes No; attach product literature

For Synchronous Machines:

Note: Contact EDC to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: _____

Model No.: _____ Version No.: _____

Submit copies of the Saturation Curve and the Vee Curve

Salient Non-Salient

Torque: _____ lb/ft Rated RPM: _____ Field Amperes: _____ at rated generator
voltage and current and _____ % PF over-excited

Type of Exciter: _____

Output Power of Exciter: _____

Type of Voltage Regulator: _____ Locked Rotor

Current: _____ Amps Synchronous Speed: _____ RPM

Winding Connection: _____ Min. Operating Freq./Time: _____

Generator Connection: Delta Wye Wye Grounded

Direct-axis Synchronous Reactance: (Xd) _____ ohms

Direct-axis Transient Reactance: (X'd) _____ ohms

Direct-axis Sub-transient Reactance: (X''d) _____ ohms

Negative Sequence Reactance: _____ ohms

Zero Sequence Reactance: _____ ohms

Neutral Impedance or Grounding Resister (if any): _____ ohms

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

For Induction Machines:

Note: Contact EDC to determine if all the information requested in this section is required for the proposed distributed generation facility.

Manufacturer: _____

Model No.: _____ Version No.: _____

Locked Rotor Current: _____ Amps

Rotor Resistance (Rr): _____ ohms Exciting Current: _____ Amps

Rotor Reactance (Xr): _____ ohms Reactive Power Required: _____

Magnetizing Reactance (Xm): _____ ohms _____ VARs (No Load)

Stator Resistance (Rs): _____ ohms _____ VARs (Full Load)

Stator Reactance (Xs): _____ ohms

Short Circuit Reactance (X"d): _____ ohms

Phases: Single Three Phase

Frame Size: _____ Design Letter: _____ Temp. Rise: _____ °C.

Reverse Power Relay Information (Level 3 Review Only)

Manufacturer: _____

Relay Type: _____ Model Number: _____

Reverse Power Setting: _____

Reverse Power Time Delay (if any): _____

Additional Information For Inverter-Based Facilities

Inverter Information:

Manufacturer: _____ Model: _____

Type: Forced Commutated Line Commutated

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Rated Output: _____ Watts _____ Volts
Efficiency: _____ % Power Factor: _____ %
Inverter UL 1741 Listed: [] Yes [] No

DC Source / Prime Mover:

Rating: _____ kW Rating: _____ kVA
Rated Voltage: _____ Volts
Open Circuit Voltage (if applicable): _____ Volts
Rated Current: _____ Amps
Short Circuit Current (if applicable): _____ Amps

Other Facility Information:

One Line Diagram attached: [] Yes
Plot Plan attached: [] Yes

Customer Signature

I hereby certify that all of the information provided in this Interconnection Request Application Form is true.

Applicant Signature: _____
Title: _____ Date: _____

An application fee is required before the application can be processed. Please verify that the appropriate fee is included with the application:

Amount: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

EDC Acknowledgement

Receipt of the application fee is acknowledged and this interconnection request is complete.

EDC Signature: _____ Date: _____

Printed Name: _____ Title: _____

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.APPENDIX D Levels 12 to 4 Contract

STANDARD AGREEMENT FOR INTERCONNECTION OF DISTRIBUTED GENERATION FACILITIES WITH A CAPACITY LESS THAN OR EQUAL TO 10 MVA

This agreement ("Agreement") is made and entered into this _____ day of _____, by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____ and _____, ("Electric Distribution Company" (EDC)), a _____ of Illinois. Interconnection customer and EDC each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, interconnection customer is proposing to install or direct the installation of a distributed generation facility, or is proposing a generating capacity addition to an existing distributed generation facility, consistent with the interconnection request application form completed by interconnection customer on _____; and

Whereas, the interconnection customer will operate and maintain, or cause the operation and maintenance of, the distributed generation facility; and

Whereas, interconnection customer desires to interconnect the distributed generation facility with EDC's electric distribution system.

Now, therefore, in consideration of the premises and mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

Article 1. Scope and Limitations of Agreement

1.1 This Agreement shall be used for all approved interconnection requests for distributed generation facilities that fall under Levels 1, 2, 3 and 4 according to the procedures set

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

forth in Part 466 of the Commission's rules (83 Ill. Adm. Code 466) (referred to as the Illinois Distributed Generation Interconnection Standard).

- 1.2 This Agreement governs the terms and conditions under which the distributed generation facility will interconnect to, and operate in parallel with, the EDC's electric distribution system.
- 1.3 This Agreement does not constitute an agreement to purchase or deliver the interconnection customer's power.
- 1.4 Nothing in this Agreement is intended to affect any other agreement between the EDC and the interconnection customer.
- 1.5 Terms used in this [Agreement](#) are defined as in Section 466.30 of the Illinois Distributed Generation Interconnection Standard unless otherwise noted.
- 1.6 Responsibilities of the Parties
 - 1.6.1 The Parties shall perform all obligations of this Agreement in accordance with all applicable laws and regulations.
 - 1.6.2 The EDC shall construct, own, operate, and maintain its interconnection facilities in accordance with this Agreement.
 - 1.6.3 The interconnection customer shall construct, own, operate, and maintain its distributed generation facility and interconnection facilities in accordance with this Agreement.
 - 1.6.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for, the facilities that it now or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of its respective lines and appurtenances on its respective sides of the point of interconnection.
 - 1.6.5 The interconnection customer agrees to design, install, maintain and operate its distributed generation facility so as to minimize the likelihood of causing an adverse system impact on the electric distribution system or any other electric system that is not owned or operated by the EDC.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1.7 Parallel Operation Obligations

Once the distributed generation facility has been authorized to commence parallel operation, the interconnection customer shall abide by all operating procedures established in IEEE Standard 1547 and any other applicable laws, statutes or guidelines, including those specified in Attachment 4 of this Agreement.

1.8 Metering

The interconnection customer shall be responsible for the cost to purchase, install, operate, maintain, test, repair, and replace metering and data acquisition equipment specified in Attachments 5 and 6 of this Agreement.

1.9 Reactive Power

1.9.1 Interconnection customers with a distributed generation facility larger than or equal to 1 MVA shall design their distributed generation facilities to maintain a power factor at the point of interconnection between .95 lagging and .95 leading at all times. Interconnection customers with a distributed generation facility smaller than 1 MVA shall design their distributed generation facility to maintain a power factor at the point of interconnection between .90 lagging and .90 leading at all times.

1.9.2 Any EDC requirements for meeting a specific voltage or specific reactive power schedule as a condition for interconnection shall be clearly specified in Attachment 4. Under no circumstance shall the EDC's additional requirements for voltage or reactive power schedules exceed the normal operating capabilities of the distributed generation facility.

1.9.3 If the interconnection customer does not operate the distributed generation facility within the power factor range specified in Attachment 4, or does not operate the distributed generation facility in accordance with a voltage or reactive power schedule specified in Attachment 4, the interconnection customer is in default, and the terms of Article 6.5 apply.

1.10 Standards of Operations

The interconnection customer must obtain all certifications, permits, licenses and approvals necessary to construct, operate and maintain the facility and to perform its obligations under this Agreement. The interconnection customer is responsible for coordinating and synchronizing the distributed generation facility with the EDC's system.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

The interconnection customer is responsible for any damage that is caused by the interconnection customer's failure to coordinate or synchronize the distributed generation facility with the electric distribution system. The interconnection customer agrees to be primarily liable for any damages resulting from the continued operation of the distributed generation facility after the EDC ceases to energize the line section to which the distributed generation facility is connected. In Attachment 4, the EDC shall specify the shortest reclose time setting for its protection equipment that could affect the distributed generation facility. The EDC shall notify the interconnection customer at least 10 business days prior to adopting a faster reclose time on any automatic protective equipment, such as a circuit breaker or line recloser, that might affect the distributed generation facility.

Article 2. Inspection, Testing, Authorization, and Right of Access**2.1 Equipment Testing and Inspection**

The interconnection customer shall test and inspect its distributed generation facility including the interconnection equipment prior to interconnection in accordance with IEEE Standard 1547 (2003) and IEEE Standard 1547.1 (2005). The interconnection customer shall not operate its distributed generation facility in parallel with the EDC's electric distribution system without prior written authorization by the EDC as provided for in Articles 2.1.1-2.1.3.

2.1.1 The EDC shall perform a witness test after construction of the distributed generation facility is completed, but before parallel operation, unless the EDC specifically waives the witness test. The interconnection customer shall provide the EDC at least 15 business days notice of the planned commissioning test for the distributed generation facility. If the EDC performs a witness test at a time that is not concurrent with the commissioning test, it shall contact the interconnection customer to schedule the witness test at a mutually agreeable time within 10 business days after the scheduled commissioning test designated on the application. If the EDC does not perform the witness test within 10 business days after the commissioning test, the witness test is deemed waived unless the Parties mutually agree to extend the date for scheduling the witness test, or unless the EDC cannot do so for good cause, in which case, the Parties shall agree to another date for scheduling the test within 10 business days after the original scheduled date. If the witness test is not acceptable to the EDC, the interconnection customer has 30 business days to address and resolve any deficiencies. This time period may be extended upon agreement between the EDC and the interconnection customer. If the interconnection customer fails to address and resolve the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

deficiencies to the satisfaction of the EDC, the applicable cure provisions of Article 6.5 shall apply. The interconnection customer shall, if requested by the EDC, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE Standard 1547.1.

2.1.2 If the interconnection customer conducts interim testing of the distributed generation facility prior to the witness test, the interconnection customer shall obtain permission from the EDC before each occurrence of operating the distributed generation facility in parallel with the electric distribution system. The EDC may, at its own expense, send qualified personnel to the distributed generation facility to observe such interim testing, but it cannot mandate that these tests be considered in the final witness test. The EDC is not required to observe the interim testing or precluded from requiring the tests be repeated at the final witness test.

2.1.3 After the distributed generation facility passes the witness test, the EDC shall affix an authorized signature to the certificate of completion and return it to the interconnection customer approving the interconnection and authorizing parallel operation. The authorization shall not be conditioned or delayed.

2.2 Commercial Operation

The interconnection customer shall not operate the distributed generation facility, except for interim testing as provided in Article 2.1, until such time as the certificate of completion is signed by all Parties.

2.3 Right of Access

The EDC must have access to the disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the EDC shall provide notice to the customer prior to using its right of access.

Article 3. Effective Date, Term, Termination, and Disconnection

3.1 Effective Date

This Agreement shall become effective upon execution by all Parties.

3.2 Term of Agreement

This Agreement shall become effective on the effective date and shall remain in effect unless terminated in accordance with Article 3.3 of this Agreement.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

3.3 Termination

- 3.3.1 The interconnection customer may terminate this Agreement at any time by giving the EDC 30 calendar days prior written notice.
- 3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.
- 3.3.3 The EDC may terminate, upon 60 calendar days' prior written notice, for failure of the interconnection customer to complete construction of the distributed generation facility within 12 months after the in-service date as specified by the Parties in Attachment 2, which may be extended by agreement between the Parties.
- 3.3.4 The EDC may terminate this Agreement, upon 60 calendar days' prior written notice, if the interconnection customer has abandoned, cancelled, permanently disconnected or stopped development, construction, or operation of the distributed generation facility, or if the interconnection customer fails to operate the distributed generation facility in parallel with the EDC's electric system for three consecutive years.
- 3.3.5 Upon termination of this Agreement, the distributed generation facility will be disconnected from the EDC's electric distribution system. Terminating this Agreement does not relieve either Party of its liabilities and obligations that are owed or continuing when the Agreement is terminated.
- 3.3.6 If the Agreement is terminated, the interconnection customer loses its position in the interconnection queue.

3.4 Temporary Disconnection

A Party may temporarily disconnect the distributed generation facility from the electric distribution system in the event one or more of the following conditions or events occurs:

- 3.4.1 Emergency conditions – shall mean any condition or situation: (1) that in the judgment of the Party making the claim is likely to endanger life or property; or (2) that the EDC determines is likely to cause an adverse system impact, or is likely to have a material adverse effect on the EDC's electric distribution system, interconnection facilities or other facilities, or is likely to interrupt or materially interfere with the provision of electric utility service to other customers; or (3) that is likely to cause a material adverse effect on the distributed generation

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

facility or the interconnection equipment. Under emergency conditions, the EDC or the interconnection customer may suspend interconnection service and temporarily disconnect the distributed generation facility from the electric distribution system. The EDC must notify the interconnection customer when it becomes aware of any conditions that might affect the interconnection customer's operation of the distributed generation facility. The interconnection customer shall notify the EDC when it becomes aware of any condition that might affect the EDC's electric distribution system. To the extent information is known, the notification shall describe the condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

- 3.4.2 Scheduled maintenance, construction, or repair – the EDC may interrupt interconnection service or curtail the output of the distributed generation facility and temporarily disconnect the distributed generation facility from the EDC's electric distribution system when necessary for scheduled maintenance, construction, or repairs on EDC's electric distribution system. To the extent possible, the EDC shall provide the interconnection customer with notice five business days before an interruption. The EDC shall coordinate the reduction or temporary disconnection with the interconnection customer; however, the interconnection customer is responsible for out-of-pocket costs incurred by the EDC for deferring or rescheduling maintenance, construction or repair at the interconnection customer's request.
- 3.4.3 Forced outages – The EDC may suspend interconnection service to repair the EDC's electric distribution system. The EDC shall provide the interconnection customer with prior notice, if possible. If prior notice is not possible, the EDC shall, upon written request, provide the interconnection customer with written documentation, after the fact, explaining the circumstances of the disconnection.
- 3.4.4 Adverse system impact – the EDC must provide the interconnection customer with written notice of its intention to disconnect the distributed generation facility, if the EDC determines that operation of the distributed generation facility creates an adverse system impact. The documentation that supports the EDC's decision to disconnect must be provided to the interconnection customer. The EDC may disconnect the distributed generation facility if, after receipt of the notice, the interconnection customer fails to remedy the adverse system impact, unless emergency conditions exist, in which case, the provisions of Article 3.4.1 apply.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

The EDC may continue to leave the generating facility disconnected until the adverse system impact is corrected.

- 3.4.5 Modification of the distributed generation facility – The interconnection customer must receive written authorization from the EDC prior to making any change to the distributed generation facility, other than a minor equipment modification. If the interconnection customer modifies its facility without the EDC's prior written authorization, the EDC has the right to disconnect the distributed generation facility until such time as the EDC concludes the modification poses no threat to the safety or reliability of its electric distribution system.
- 3.4.6 The EDC is not responsible for any lost opportunity or other costs incurred by the interconnection customer as a result of an interruption of service under Article 3.

Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades

4.1 Interconnection Facilities

- 4.1.1 The interconnection customer shall pay for the cost of the interconnection facilities itemized in Attachment 3. The EDC shall identify the additional interconnection facilities necessary to interconnect the distributed generation facility with the EDC's electric distribution system, the cost of those facilities, and the time required to build and install those facilities, as well as an estimated date of completion of the building or installation of those facilities.
- 4.1.2 The interconnection customer is responsible for its expenses, including overheads, associated with owning, operating, maintaining, repairing, and replacing its interconnection equipment.

4.2 Distribution Upgrades

The EDC shall design, procure, construct, install, and own any distribution upgrades. The actual cost of the distribution upgrades, including overheads, shall be directly assigned to the interconnection customer whose distributed generation facility caused the need for the distribution upgrades.

Article 5. Billing, Payment, Milestones, and Financial Security

- 5.1 Billing and Payment Procedures and Final Accounting (Applies to supplemental additional reviews conducted under ~~a~~Level 2~~Level 1, 2 or 3~~ review with EDC)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

[construction necessary for accommodating the distributed generation facility](#), and Level 4 reviews)

- 5.1.1 The EDC shall bill the interconnection customer for the design, engineering, construction, and procurement costs of EDC-provided interconnection facilities and distribution upgrades contemplated by this Agreement as set forth in Attachment 3. The billing shall occur on a monthly basis, or as otherwise agreed to between the Parties. The interconnection customer shall pay each bill within 30 calendar days after receipt, or as otherwise agreed to between the Parties.
- 5.1.2 Within 90 calendar days after completing the construction and installation of the EDC's interconnection facilities and distribution upgrades described in Attachments 2 and 3 to this Agreement, the EDC shall provide the interconnection customer with a final accounting report of any difference between (1) the actual cost incurred to complete the construction and installation of the EDC's interconnection facilities and distribution upgrades; and (2) the interconnection customer's previous deposit and aggregate payments to the EDC for the interconnection facilities and distribution upgrades. If the interconnection customer's cost responsibility exceeds its previous deposit and aggregate payments, the EDC shall invoice the interconnection customer for the amount due and the interconnection customer shall make payment to the EDC within 30 calendar days. If the interconnection customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the EDC shall refund to the interconnection customer an amount equal to the difference within 30 calendar days after the final accounting report. Upon request from the interconnection customer, if the difference between the budget estimate and the actual cost exceeds 20%, the EDC will provide a written explanation for the difference.
- 5.1.3 If a Party disputes any portion of its payment obligation pursuant to this Article 5, the Party shall pay in a timely manner all non-disputed portions of its invoice, and the disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. A Party disputing a portion of an Article 5 payment shall not be considered to be in default of its obligations under this Article.
- 5.2 Interconnection Customer Deposit
At least 20 business days prior to the commencement of the design, procurement, installation, or construction of the EDC's interconnection facilities and distribution

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

upgrades, the interconnection customer shall provide the EDC with a deposit equal to 100% of the estimated, non-binding cost to procure, install, or construct any such facilities. However, when the estimated date of completion of the building or installation of facilities exceeds three months from the date of notification, pursuant to Article 4.1.1 of this Agreement, this deposit may be held in escrow by a mutually agreed-upon third-party, with any interest to inure to the benefit of the interconnection customer.

Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default**6.1 Assignment**

This Agreement may be assigned by either Party. If the interconnection customer attempts to assign this Agreement, the assignee must agree to the terms of this Agreement in writing and such writing must be provided to the EDC. Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason of the assignment. An assignee is responsible for meeting the same obligations as the assignor.

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (including mergers, consolidations, or transfers, or a sale of a substantial portion of the Party's assets, between the Party and another entity), of the assigning Party that has an equal or greater credit rating and the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement.

6.1.2 The interconnection customer can assign this Agreement, without the consent of the EDC, for collateral security purposes to aid in providing financing for the distributed generation facility.

6.2 Limitation on Damages

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages and reasonable attorney's fees, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits, lost revenues, replacement power, cost of capital or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

6.3 Indemnity

- 6.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.
- 6.3.2 The interconnection customer shall indemnify and defend the EDC and the EDC's directors, officers, employees, and agents, from all damages and expenses resulting from a third party claim arising out of or based upon the interconnection customer's (a) negligence or willful misconduct or (b) breach of this Agreement.
- 6.3.3 The EDC shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all damages and expenses resulting from a third party claim arising out of or based upon the EDC's (a) negligence or willful misconduct or (b) breach of this Agreement.
- 6.3.4 Within 5 business days after receipt by an indemnified Party of any claim or notice that an action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply has commenced, the indemnified Party shall notify the indemnifying Party of such fact. The failure to notify, or a delay in notification, shall not affect a Party's indemnification obligation unless that failure or delay is materially prejudicial to the indemnifying Party.
- 6.3.5 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, that indemnified Party may, at the expense of the indemnifying Party, contest, settle or consent to the entry of any judgment with respect to, or pay in full, the claim.
- 6.3.6 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of the indemnified Party's actual loss, net of any insurance or other recovery.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

6.4 Force Majeure

- 6.4.1 As used in this Article, a force majeure event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.
- 6.4.2 If a force majeure event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the force majeure event ("Affected Party") shall notify the other Party of the existence of the force majeure event within one business day. The notification must specify the circumstances of the force majeure event, its expected duration, and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance. If the initial notification is verbal, it must be followed up with a written notification within one business day. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the force majeure event until the event ends. The Affected Party may suspend or modify its obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the force majeure event cannot be otherwise mitigated.

6.5 Default

- 6.5.1 No default shall exist when the failure to discharge an obligation (other than the payment of money) results from a force majeure event as defined in this Agreement, or the result of an act or omission of the other Party.
- 6.5.2 A Party shall be in default ("Default") of this Agreement if it fails in any material respect to comply with, observe or perform, or defaults in the performance of, any covenant or obligation under this Agreement and fails to cure the failure within 60 calendar days after receiving written notice from the other Party. Upon a default of this Agreement, the non-defaulting Party shall give written notice of the default to the defaulting Party. Except as provided in Article 6.5.3, the defaulting Party has 60 calendar days after receipt of the default notice to cure the default; provided, however, if the default cannot be cured within 60 calendar days, the

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

defaulting Party shall commence the cure within 20 calendar days after original notice and complete the cure within six months from receipt of the default notice; and, if cured within that time, the default specified in the notice shall cease to exist.

- 6.5.3 If a Party has assigned this Agreement in a manner that is not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, and is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party has 30 days from receipt of the default notice to cure the default.
- 6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for in this Article, the non-defaulting Party shall have the right to terminate this Agreement by written notice, and be relieved of any further obligation under this Agreement and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due under this Agreement, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.

Article 7. Insurance

For distributed generation facilities with a nameplate capacity of 1 MVA or above, the interconnection customer shall carry sufficient insurance coverage so that the maximum comprehensive/general liability coverage that is continuously maintained by the interconnection customer during the term shall be not less than \$2,000,000 for each occurrence, and an aggregate, if any, of at least \$4,000,000. The EDC, its officers, employees and agents shall be added as an additional insured on this policy. The interconnection customer agrees to provide the EDC with at least 30 calendar days advance written notice of cancellation, reduction in limits, or non-renewal of any insurance policy required by this Article.

Article 8. Dispute Resolution

- 8.1 Parties shall attempt to resolve all disputes regarding interconnection as provided in this Article in a good faith manner.
- 8.2 If there is a dispute between the Parties about an interpretation of the Agreement, the aggrieved Party shall issue a written notice to the other Party to the [Agreement](#) that specifies the dispute and the Agreement articles that are disputed.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 8.3 A meeting between the Parties shall be held within ten days after receipt of the written notice. Persons with decision-making authority from each Party shall attend the meeting. If the dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each Party shall also attend the meeting. The meeting may be conducted by teleconference.
- 8.4 After the first meeting, each Party may seek resolution through complaint or mediation procedures available at the Commission. The Commission may designate an engineer from the Commission's Energy Division to assist in resolving the dispute. Dispute resolution shall be conducted in a manner designed to minimize costs and delay. Dispute resolution may be conducted by phone.
- 8.5 Pursuit of dispute resolution may not affect an interconnection request or an interconnection applicant's position in the EDC's interconnection queue.
- 8.6 If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

Article 9. Miscellaneous

- 9.1 **Governing Law, Regulatory Authority, and Rules**
The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Illinois, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek change in, appeal, or otherwise contest any laws, orders or regulations of a governmental authority. The language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against the EDC or interconnection customer, regardless of the involvement of either Party in drafting this Agreement.
- 9.2 **Amendment**
Modification of this Agreement shall be only by a written instrument duly executed by both Parties.
- 9.3 **No Third-Party Beneficiaries**
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

than the Parties, and the obligations in this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

9.4 Waiver

9.4.1 Except as otherwise provided in this Agreement, a Party's compliance with any obligation, covenant, agreement, or condition in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting the waiver, but the waiver or failure to insist upon strict compliance with the obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

9.4.2. Failure of any Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or the rights under this Agreement terminated, shall not constitute a waiver or relinquishment of any rights set out in this Agreement, but the same shall be and remain at all times in full force and effect, unless and only to the extent expressly set forth in a written document signed by that Party granting the waiver or relinquishing any such rights. Any waiver granted, or relinquishment of any right, by a Party shall not operate as a relinquishment of any other rights or a waiver of any other failure of the Party granted the waiver to comply with any obligation, covenant, agreement, or condition of this Agreement.

9.5 Entire Agreement

Except as provided in Article 9.1, this Agreement, including all attachments, constitutes the entire Agreement between the Parties with reference to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

9.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

9.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties, or to impose any

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

9.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) that portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by the ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

9.9 Environmental Releases

Each Party shall notify the other Party of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the distributed generation facility or the interconnection facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided that Party makes a good faith effort to provide the notice no later than 24 hours after that Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

9.10 Subcontractors

Nothing in this Agreement shall prevent a Party from using the services of any subcontractor it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing services and each Party shall remain primarily liable to the other Party for the performance of the subcontractor.

9.10.1 A subcontract relationship does not relieve any Party of any of its obligations under this Agreement. The hiring Party remains responsible to the other Party for the acts or omissions of its subcontractor. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of the hiring Party.

9.10.2 The obligations under this Article cannot be limited in any way by any limitation of subcontractor's insurance.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Article 10. Notices

10.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to Interconnection Customer:

Interconnection Customer: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

If to EDC:

EDC: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____ E-Mail: _____

Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other Party and not required by this Agreement to be in writing may be given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out above.

10.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

If to Interconnection Customer:

Interconnection Customer: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____

If to EDC:

EDC: _____

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____

10.3 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications that may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

Interconnection Customer's Operating Representative: _____

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____

EDC's Operating Representative: _____

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____

10.4 Changes to the Notice Information

Either Party may change this notice information by giving five business days written notice before the effective date of the change.

Article 11. Signatures

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the Interconnection Customer:

Name: _____

Title: _____

Date: _____

For EDC:

Name: _____

Title: _____

Date: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 1**Definitions**

Adverse system impact – A negative effect that compromises the safety or reliability of the electric distribution system or materially affects the quality of electric service provided by the electric distribution company (EDC) to other customers.

Applicable laws and regulations – All duly promulgated applicable federal, State and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority, having jurisdiction over the Parties.

Commissioning test – Tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts. At a minimum, the scope of the commissioning tests performed shall include the commissioning test specified IEEE Standard 1547 Section 5.4 "Commissioning tests."

Distributed generation facility – The equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or a local electric power system.

Distribution upgrades – A required addition or modification to the EDC's electric distribution system at or beyond the point of interconnection to accommodate the interconnection of a distributed generation facility. Distribution upgrades do not include interconnection facilities.

Electric distribution company or EDC – Any electric utility entity subject to the jurisdiction of the Illinois Commerce Commission.

Electric distribution system – The facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas but generally carry less than 100 kilovolts of electricity. Electric distribution system has the same meaning as the term Area EPS, as defined in 3.1.6.1 of IEEE Standard 1547.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Facilities study – An engineering study conducted by the EDC to determine the required modifications to the EDC's electric distribution system, including the cost and the time required to build and install the modifications, as necessary to accommodate an interconnection request.

Force majeure event – Any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing.

Governmental authority – Any federal, State, local or other governmental regulatory or administrative agency, court, commission, department, board, other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that this term does not include the interconnection customer, EDC or any affiliate of either.

IEEE Standard 1547 – The Institute of Electrical and Electronics Engineers, Inc. (IEEE), 3 Park Avenue, New York NY 10016-5997, Standard 1547 (2003), "Standard for Interconnecting Distributed Resources with Electric Power Systems."

IEEE Standard 1547.1 – The IEEE Standard 1547.1 (2005), "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems."

Interconnection agreement or Agreement – The agreement between the interconnection customer and the EDC. The interconnection agreement governs the connection of the distributed generation facility to the EDC's electric distribution system and the ongoing operation of the distributed generation facility after it is connected to the EDC's electric distribution system.

Interconnection customer – The entity entering into this Agreement for the purpose of interconnecting a distributed generation facility to the EDC's electric distribution system.

Interconnection equipment – A group of components or an integrated system connecting an electric generator with a local electric power system or an electric distribution system that includes all interface equipment, including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Interconnection facilities – Facilities and equipment required by the EDC to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities, and equipment between the distributed generation facility and the point of interconnection, including modification, additions, or upgrades that are necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

Interconnection request – An interconnection customer's request, on the required form, for the interconnection of a new distributed generation facility, or to increase the capacity or change the operating characteristics of an existing distributed generation facility that is interconnected with the EDC's electric distribution system.

Interconnection study – Any of the following studies, as determined to be appropriate by the EDC: the interconnection feasibility study, the interconnection system impact study, and the interconnection facilities study.

Illinois standard distributed generation interconnection rules – The most current version of the procedures for interconnecting distributed generation facilities adopted by the Illinois Commerce Commission. See 83 Ill. Adm. Code 466.

Parallel operation or Parallel – The state of operation that occurs when a distributed generation facility is connected electrically to the electric distribution system.

Point of interconnection – The point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling" defined in 3.1.13 of IEEE Standard 1547.

Witness test – For lab-certified equipment, verification (either by an on-site observation or review of documents) by the EDC that the interconnection installation evaluation required by IEEE Standard 1547 Section 5.3 and the commissioning test required by IEEE Standard 1547 Section 5.4 have been adequately performed. For interconnection equipment that has not been lab-certified, the witness test shall also include verification by the EDC of the on-site design tests required by IEEE Standard 1547 Section 5.1 and verification by the EDC of production tests required by IEEE Standard 1547 Section 5.2. All tests verified by the EDC are to be performed in accordance with the test procedures specified by IEEE Standard 1547.1.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 2**Construction Schedule, Proposed Equipment & Settings**

This attachment is to be completed by the interconnection customer and shall include the following:

1. The construction schedule for the distributed generation facility.
2. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, metering equipment, and distribution upgrades.
3. Component specifications for equipment identified in the one-line diagram.
4. Component settings.
5. Proposed sequence of operations.
6. A three line diagram showing current potential circuits for protective relays.
7. Relay tripping and control schematic diagram.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 3**Description, Costs and Time Required to Build and
Install the EDC's Interconnection Facilities**

This attachment is to be completed by the EDC and shall include the following:

1. Required interconnection facilities, including any required metering.
2. An estimate of itemized costs charged by the EDC for interconnection, including overheads, based on results from prior studies.
3. An estimate for the time required to build and install the EDC's interconnection facilities based on results from prior studies and an estimate of the date upon which the facilities will be completed.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 4

Operating Requirements for Distributed Generation Facilities Operating in Parallel

The EDC shall list specific operating practices that apply to this distributed generation interconnection and the conditions under which each listed specific operating practice applies.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 5

Monitoring and Control Requirements

This attachment is to be completed by the EDC and shall include the following:

1. The EDC's monitoring and control requirements must be specified, along with a reference to the EDC's written requirements documents from which these requirements are derived.
2. An internet link to the requirements documents.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 6

Metering Requirements

This attachment is to be completed by the EDC and shall include the following:

1. The metering requirements for the distributed generation facility.
2. Identification of the appropriate tariffs that establish these requirements.
3. An internet link to these tariffs.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment 7**As Built Documents**

This attachment is to be completed by the interconnection customer and shall include the following:

When it returns the certificate of completion to the EDC, the interconnection customer shall provide the EDC with documents detailing the as-built status of the following:

1. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, and metering equipment.
2. Component specifications for equipment identified in the one-line diagram.
3. Component settings.
4. Proposed sequence of operations.
5. A three-line diagram showing current potential circuits for protective relays.
6. Relay tripping and control schematic diagram.

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 466.APPENDIX G Interconnection Facilities Study Agreement**Interconnection Facilities Study Agreement**

This agreement ("Agreement") is made and entered into this _____ day of _____ by and between _____ ("interconnection customer"), as an individual person, or as a _____ organized and existing under the laws of the State of _____, and _____ ("Electric Distribution Company" (EDC)), a _____ existing under the laws of the State of Illinois. Interconnection customer and EDC each may be referred to as a "Party", or collectively as the "Parties".

Recitals:

Whereas, interconnection customer is proposing to develop a distributed generation facility or modifying an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on _____ (Date); and

Whereas, interconnection customer desires to interconnect the distributed generation facility with EDC's electric distribution system; and

Whereas, EDC has completed an interconnection system impact study and provided the results of said study to interconnection customer [\(unless proceeding directly from Level 1, 2 or 3 review\)](#); and

Whereas, interconnection customer has requested EDC to perform an interconnection facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to interconnect the distributed generation facility;

Now, therefore, in consideration of and subject to the mutual covenants contained in this Agreement, the Parties agree as follows:

1. All terms defined in Section 466.30 of the Illinois Distributed Generation Interconnection Standard shall have the meanings indicated in that Section when used in this Agreement.
2. Interconnection customer elects and EDC shall cause an interconnection facilities study consistent with Section 466.120 of the Illinois Distributed Generation Interconnection Standard.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 3. The scope of the interconnection facilities study shall be determined by the information provided in Attachment A to this Agreement.
- 4. An interconnection facilities study report (1) shall provide a description, estimated cost of distribution upgrades, and a schedule for required facilities to interconnect the distributed generation facility to EDC's electric distribution system; and (2) shall address all issues identified in the interconnection system impact study (or identified in this study if the system impact study is combined herein).
- 5. Interconnection customer shall provide a study deposit of 100% of the estimated non-binding study costs at least 20 business days prior to the date upon which the study commences.
- 6. In cases where no distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 15 business days after this Agreement is signed by the Parties. In cases where distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to interconnection customer within 30 business days after this Agreement is signed by the Parties.
- 7. Study fees shall be based on actual costs and will be invoiced to interconnection customer after the study is transmitted to interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.
- 8. Interconnection customer shall pay any actual study costs that exceed the deposit within 30 calendar days on receipt of the invoice. EDC shall refund any excess deposit amount within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: _____

Name (Printed): _____ Title: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

[Insert name of EDC]

Signed: _____

Name (Printed): _____ Title: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Attachment A to Interconnection Facilities Study Agreement

Minimum Information That Interconnection Customer Must Provide With the Interconnection Facilities Study Agreement.

Provide location plan and simplified one-line diagram of the distributed generation facilities.

For staged projects, please indicate size and location of planned additional future generation. On the one-line diagram, indicate the generation capacity attached at each metering location. (Maximum load on CT/PT).

On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT) Amps.

One set of metering is required for each generation connection to the EDC's electric distribution system.

Number of generation connections: _____

Will an alternate source of auxiliary power be available during CT/PT maintenance?

Yes No

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total distributed generation capacity?

Yes No (Please indicate on the one-line diagram).

What type of control system or PLC will be located at the distributed generation facility?

What protocol does the control system or PLC use? _____

Please provide a scale drawing of the site. Indicate the point of common coupling, distribution line, and property lines.

Number of third party easements required for EDC's interconnection facilities: _____

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

To be completed in coordination with EDC.

Is the distributed generation facility located in EDC's service area?

Yes No

If No, please provide name of local provider:

Please provide the following proposed schedule dates:

Begin construction date: _____

Generator step-up transformers receive back feed power date: _____

Generation testing date: _____

Commercial operation date: _____

(Source: Amended at 41 Ill. Reg. 862, effective January 20, 2017)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Electric Interconnection of Large Distributed Generation Facilities
- 2) Code Citation: 83 Ill. Adm. Code 467
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
467.30	Amendment
467.45	New Section
467.50	Amendment
467.60	Amendment
467.70	Amendment
- 4) Statutory Authority: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101]
- 5) Effective Date of Rules: January 20, 2017
- 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 Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 2396; February 5, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: A number of stylistic changes and corrections have been made. In addition, text originally shown as being deleted is being restored as Section 467.70(e)(1)(A)(iv).
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Does this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This rulemaking and the associated proceeding for 83 Ill. Adm. Code 466 update the Commission's rules on interconnection, reflecting recent changes by the Federal Energy Regulatory Commission in its own rules on small-generator interconnection and the push for smart grid infrastructure improvement in Illinois. In addition, the amendments advance the statutory goal of minimizing barriers to the interconnection of distributed generation.
- 16) Questions or requests for information about these adopted rules shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIESPART 467
ELECTRIC INTERCONNECTION OF LARGE
DISTRIBUTED GENERATION FACILITIES

Section

467.10	Scope
467.20	Definitions and Incorporations by Reference
467.30	Waiver
467.40	Technical Standards
467.45	Pre-Application Report
467.50	Interconnection Request Review
467.60	General Requirements
467.70	Interconnection Review Procedures
467.80	Disputes
467.90	Records
467.APPENDIX A	Certificate of Completion
467.APPENDIX B	Application
467.APPENDIX C	Contract
467.APPENDIX D	Interconnection Feasibility Study Agreement
467.APPENDIX E	Interconnection System Impact Study Agreement
467.APPENDIX F	Interconnection Facilities Study Agreement

AUTHORITY: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101].

SOURCE: Adopted at 34 Ill. Reg. 3515, effective March 1, 2010; amended at 41 Ill. Reg. 958, effective January 20, 2017.

Section 467.30 Waiver

- a) The Commission, on application or petition of an EDC, distributed generation applicant or customer, or on its own motion, may grant a temporary or permanent

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

waiver from this Part, or any Section or subsection of this Part, in individual cases in which the Commission finds that:

- 1) the provision from which the waiver is granted is not statutorily mandated;
 - 2) no party will be injured by the granting of the waiver; and
 - 3) the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.
- b) The party seeking the burden of proof in establishing a right to waiver shall bear the burden of proof to establish the right for ~~be on the party seeking the~~ waiver.

(Source: Amended at 41 Ill. Reg. 958, effective January 20, 2017)

Section 467.45 Pre-Application Report

- a) In addition to the information described in Section 467.60, which may be provided in response to an informal request, a potential applicant may submit a formal written request form along with a non-refundable fee of \$300 for a pre-application report on a proposed project at a specific site. The EDC shall provide the pre-application data described in this Section to the potential applicant within 20 business days after receipt of the completed request form and payment of the \$300 fee. The pre-application report produced by the EDC is non-binding and does not confer any rights; the potential applicant must successfully file an application before it can interconnect with the EDC's system. The written pre-application report request form shall include the following information to clearly and sufficiently identify the location of the proposed point of interconnection:
- 1) project contact information, including name, address, phone number and email address;
 - 2) project location (street address with nearby cross streets and town);
 - 3) meter number, pole number or other equivalent information identifying proposed point of interconnection, if available;
 - 4) generator type (e.g., solar, wind, combined heat and power, battery storage/inverter system and fuel cells);

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 5) size (alternating current kW);
 - 6) single or three phase generator configuration;
 - 7) whether a stand-alone generator is proposed (no onsite load, not including station service);
 - 8) whether new service is requested for the site. If there is existing service, include the customer account number, site minimum and maximum current or proposed electric loads in kW (if available), and specify if the load is expected to change; and
 - 9) the number and capacity of units to be interconnected.
- b) Using the information provided in the pre-application report request form described in subsection (a), the EDC shall identify the substation/area bus, bank or circuit likely to serve the proposed point of interconnection. This selection by the EDC does not necessarily indicate, after application of the relevant review process, that this would be the circuit to which the project ultimately connects. The potential applicant must request additional pre-application reports if information about multiple points of interconnection is requested. Subject to subsection (c), the pre-application report shall include the following information:
- 1) total capacity (in megavolt amperes (MVA)) of substation/area bus, bank or circuit based on normal or operating ratings likely to serve the proposed point of interconnection;
 - 2) existing aggregate generation capacity (in MVA) interconnected to a substation/area bus, bank or circuit (i.e., amount of generation online) likely to serve the proposed point of interconnection;
 - 3) aggregate queued generation capacity (in MVA) for a substation/area bus, bank or circuit (i.e., amount of generation in the queue) likely to serve the proposed point of interconnection;
 - 4) available capacity (in MVA) of substation/area bus or bank and circuit likely to serve the proposed point of interconnection (i.e., total capacity

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

less the sum of existing aggregate generation capacity and aggregate queued generation capacity);

- 5) substation nominal distribution voltage and/or transmission nominal voltage, if applicable, based on the interconnection point;
 - 6) nominal distribution circuit voltage at the proposed point of interconnection;
 - 7) approximate circuit distance between the proposed point of interconnection and the substation;
 - 8) relevant line section actual or estimated peak load and minimum load data, including daytime minimum load (i.e., 10 a.m. to 4 p.m. for fixed solar photovoltaic (PV) panel systems and 8 a.m. to 6 p.m. for PV systems utilizing tracking systems), and absolute minimum load, when available;
 - 9) number and rating of protective devices and number and type (standard, bi-directional) of voltage regulating devices between the proposed point of interconnection and the substation/area. Identify whether the substation has a load tap changer;
 - 10) number of phases available at the proposed point of interconnection. If a single phase, distance from the three-phase circuit;
 - 11) limiting conductor ratings from the proposed point of interconnection to the distribution substation;
 - 12) whether the point of interconnection is located on a spot network, grid network or radial supply; and
 - 13) based on the proposed point of interconnection, existing or known constraints such as, but not limited to, electrical dependencies at that location, short circuit interrupting capacity issues, power quality or stability issues on the circuit, capacity constraints or secondary networks.
- c) The pre-application report need only include existing data. A pre-application report request does not obligate the EDC to conduct a study or other analysis of the proposed generator in the event that data is not readily available. If the EDC

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

cannot complete all or some of a pre-application report due to lack of available data, the EDC shall provide the interconnection customer with a pre-application report that includes the data that is available. The provision of information on "available capacity" (see subsection (b)(4)) does not imply that an interconnection up to this level may be completed without impacts, since there are many variables studied as part of the interconnection review process and data provided in the pre-application report may become outdated at the time of the submission of the complete application. Notwithstanding any of the provisions of this Section, the EDC shall, in good faith, include data in the pre-application report that represents the best available information at the time of reporting.

(Source: Added at 41 Ill. Reg. 958, effective January 20, 2017)

Section 467.50 Interconnection Request Review

- a) Applicants seeking to interconnect a distributed generation facility, or to revise a distributed generation facility that has already been interconnected, shall submit an interconnection request to the EDC that owns the electric distribution system to which interconnection is sought. Applicants shall use interconnection request forms approved by the Commission. The EDC may require additional information from the Applicant if the EDC can demonstrate that the additional information is necessary in order for the EDC to conduct its review under this Part.
- b) The application fee is specified in the interconnection application form (see Appendix B).
- c) Interconnection requests may be submitted electronically, if agreed to by the parties.
- d) If the timelines provided in this Part cannot be met due to the unique characteristics of the proposed facility, parties shall negotiate timelines that differ from those established in this Part. Alternative timelines may be needed to account for project complexities, personnel requirements or other outside factors regarding a particular project. If a mutual agreement is not reached, parties may use the dispute resolution procedures in Section 467.80.

(Source: Amended at 41 Ill. Reg. 958, effective January 20, 2017)

Section 467.60 General Requirementsrequirements

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- a) When an interconnection request for a distributed generation facility includes multiple energy production devices at a site for which the applicant seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of the multiple devices.
- b) When an interconnection request is for an increase in capacity for an existing distributed generation facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the distributed generation facility.
- c) EDCs shall designate a point of contact and provide contact information on their websites. The point of contact shall be able to direct applicant questions concerning interconnection request submissions and the interconnection request process to knowledgeable individuals within the EDC.
- d) The information that the EDC makes available to potential applicants can include prior EDC studies to help applicants understand whether it is feasible to interconnect a distributed generation facility at a particular point on the EDC's electric distribution system. However, the EDC can refuse to provide the information to the extent that providing it violates security requirements or confidentiality agreements, or is contrary to State or federal law. In appropriate circumstances, the EDC may require a confidentiality agreement prior to release of this information. If the EDC refuses to provide the requested information, it shall give written notice to the applicant requesting the information, which shall include the specific reasons that preclude sharing the requested information.
- e) After an interconnection request is deemed complete by the EDC, any modification that is not agreed to by the EDC requires submission of a new interconnection request.
- f) When an applicant is not currently a customer of the EDC at the proposed site, the applicant shall provide, upon EDC request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract.
- g) The EDC or the applicant may propose a single point of interconnection for multiple distributed generation facilities located at an interconnection customer site that is on contiguous property. If the applicant rejects the EDC's proposal for a single point of interconnection, the applicant shall pay any additional cost to

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

provide a separate point of interconnection for each distributed generation facility. If the EDC, without written technical explanation, rejects the customer's proposal for a single point of interconnection, the EDC shall pay any additional study cost to provide separate points of interconnection for each distributed generation facility.

- h) The interconnection customer shall allow the EDC to isolate the distributed generation facility. The interconnection customer shall permit the EDC to affix a placard in a location of its choosing that provides instructions to EDC operating personnel for accessing the isolation device. If the EDC needs to isolate the distributed generation facility, the EDC shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility as long as the EDC is not negligent in isolating the distributed generation facility. Isolation device specifications shall be established through the study review procedures at Section 467.70.
- i) Any metering required for a distributed generation interconnection shall be installed, operated and maintained in accordance with applicable EDC tariffs and agreements. Metering requirements must be identified in the distributed generation interconnection agreement executed between the interconnection customer and the EDC.
- j) Monitoring and control requirements shall be consistent with the EDC's published requirements, which shall be consistent with industry standards, and shall be clearly identified in the interconnection agreement between the interconnection customer and the EDC. Transfer trip shall not be considered EDC monitoring and control when required and installed to protect the electric distribution system or an affected system against adverse system impacts.
- k) The EDC may require a witness test after the distributed generation facility is constructed or after the revisions are completed. The applicant shall provide the EDC with at least 15 business days notice of a planned witness test for the distributed generation facility. The applicant and EDC shall schedule the witness test at a mutually agreeable time. Any disputes between the parties as to what constitutes a witness test shall be resolved under Section 467.80. If the distributed generation facility does not satisfactorily pass the witness test, the applicant shall be granted 30 business days after the date of the witness test or dispute resolution to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

agreement of the EDC and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the EDC; subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the EDC's satisfaction, the interconnection request shall be deemed withdrawn. Even if the EDC or an entity approved by the EDC does not witness a commissioning test, the applicant remains obligated to satisfy the EDC's interconnection test specifications and requirements.

- l) When an interconnection request is for modifications to an existing distributed generation facility, the EDC shall review the interconnection request to determine if any studies are necessary. If no studies are necessary, the EDC shall inform the applicant that the requested revisions are acceptable and can proceed without further analysis by the EDC. The provisions of this Part shall continue to apply to any revisions made to the existing distributed generation facility.
- m) Each EDC shall allow interconnection applications to be submitted through the EDC's web site.
- n) Each EDC shall dedicate a page on its website to interconnection procedures. The relevant website page shall include:
 - 1) the EDC's interconnection procedures and attachments in an electronically searchable format;
 - 2) the EDC's interconnection application forms in a format that allows for electronic entry of data;
 - 3) the EDC's interconnection agreements; and
 - 4) the EDC's point of contact for submission of interconnection requests, including email and phone number.
- o) Each EDC shall allow electronic signatures to be used for interconnection applications.

(Source: Amended at 41 Ill. Reg. 958, effective January 20, 2017)

Section 467.70 Interconnection Review Procedures

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- a) The applicant shall submit an interconnection request using Appendix B, along with the application fee specified in Appendix B.
- b) Within 10 business days after receipt of an interconnection request, the EDC shall notify the applicant whether the request is complete. When the interconnection request is not complete, the EDC shall provide the applicant with a written list detailing the information required to complete the interconnection request. When additional information is required and reasonable, the applicant and the EDC shall agree on a schedule to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.
- c) The queue position of an interconnection request is used to determine the cost responsibility for the system upgrades and interconnection facilities necessary to accommodate the interconnection. The EDC shall notify the applicant as to its queue position.
 - 1) If the applicant amends the interconnection request in a manner requiring ~~that that requires~~ the EDC re-study the feasibility or impact of the interconnection, the interconnection request shall receive a new queue position based on the date that it was amended.
 - 2) If an EDC determines that other interconnection requests may affect the same facilities on its electric distribution system or transmission system as the distributed generation facility either proposed or being revised in an applicant's interconnection request, the EDC may study these requests together without regard to their queue position. If an EDC considers interconnection requests together because they both affect the same facilities on the electric distribution system or on transmission networks, the EDC shall notify the applicant of that fact at the time studies are initiated. If the EDC considers two or more interconnection requests together, estimated costs allocated to each applicant shall not exceed the estimated cost associated with the interconnection request had the EDC reviewed the interconnection requests in sequence.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- d) After the interconnection request has been assigned a queue position, the following procedures shall be followed to determine how a study review shall be conducted:
- 1) The EDC shall offer the applicant the related study agreement forms included in Appendices C, D, and E. By mutual agreement of the parties, the scoping meeting, interconnection feasibility study, interconnection system impact study, or interconnection facilities study provided for in a study review and discussed in this Section may be waived or combined.
 - 2) A scoping meeting shall be held no later than 10 business days, or on a mutually agreed upon date and time, after the EDC ~~has had~~ notified the applicant that the applicant has provided all the necessary information. The meeting's purpose is to review the interconnection request and existing studies relevant to the interconnection request.
 - 3) When the parties agree that an interconnection feasibility study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after the parties' agreement or, if held, the scoping meeting, an interconnection feasibility study agreement (see Appendix D). The interconnection feasibility study agreement shall include an outline for the scope of the study and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.
 - 4) When the parties agree that an interconnection system impact study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after the parties' agreement, an interconnection system impact study agreement (see Appendix E). The interconnection system impact study agreement shall include an outline for the study's scope and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.
 - 5) When the parties agree that an interconnection facilities study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after parties' agreement, an interconnection facilities study agreement (see Appendix F). The interconnection facilities study

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

agreement shall include an outline for the study's scope and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.

- 6) Interconnection studies that the EDC conducts shall consider all other distributed generation facilities that, on the date the interconnection study is commenced, are directly interconnected with the EDC's electric distribution system, have a higher queue position than the request being studied, or have a valid and active interconnection agreement.
 - 7) If the applicant signs and returns an interconnection study agreement, but subsequently notifies the EDC that it will not continue with its proposed large distributed generation facility project for any reason, the EDC need not complete the study or provide the applicant with study results.
- e) The following guidelines shall govern all required interconnection studies:
- 1) An interconnection feasibility study shall include analyses to identify potential adverse system impacts that would result from the proposed interconnection.
 - A) The interconnection feasibility study shall include pertinent elements from among the following:
 - i) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;
 - ii) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;
 - iii) Initial review of grounding requirements and system protection; and
 - iv) ~~Description of and nonbinding estimated cost of facilities required to interconnect the distributed generation facility to the EDC's electric distribution system in a safe and reliable manner; and~~

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- ~~iv)~~ Description of, and nonbinding estimated cost of, facilities required to interconnect the distributed generation facility to the EDC's electric distribution system in a safe and reliable manner.
- B) If an applicant requests that the interconnection feasibility study evaluates multiple potential points of interconnection, additional evaluations may be required. Additional evaluations shall be paid for by the applicant.
- C) An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact, but the EDC is able to identify a remedy without the need for an interconnection system impact study.
- D) The parties shall use an interconnection feasibility study agreement, included as Appendix D, unless both parties agree to use an alternative form.
- 2) An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the EDC's electric distribution and transmission system. This study identifies and sets forth in detail what system impacts interconnecting a new or revising an existing distributed generation facility to the distribution system would have on the electric distribution and transmission system, if there were no system upgrades.
- A) A distribution interconnection system impact study shall be performed when a potential adverse system impact is identified in the interconnection feasibility study. The interconnection system impact study shall include pertinent elements from among the following:
- i) A load flow study;
 - ii) Identification of affected systems;
 - iii) A short-circuit analysis;

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- iv) An analysis of equipment interrupting ratings;
 - v) A protection coordination study;
 - vi) Voltage drop and flicker studies;
 - vii) A stability analysis;
 - viii) Grounding reviews;
 - ix) Impact on system operation; and
 - x) Alternatives for mitigating adverse system impacts on affected systems.
- B) The final interconnection system impact study report shall provide the following:
- i) The underlying assumptions of the study;
 - ii) The results of the analyses;
 - iii) A list of any potential impediments to providing the requested interconnection service;
 - iv) Required system upgrades; and
 - v) A non-binding estimate of cost and time to construct any required system upgrades.
- C) The parties shall use an interconnection impact study agreement, included as Appendix E, unless both parties agree to use an alternative form.
- 3) The interconnection facilities study shall be conducted as follows:
- A) The interconnection facilities study shall estimate the cost of the equipment, engineering, procurement and construction work,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

including overheads, needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study. The interconnection facilities study shall identify:

- i) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;
 - ii) The nature and estimated cost of the EDC's interconnection facilities and system upgrades necessary to accomplish the interconnection; and
 - iii) An estimate for the time required to complete the construction and installation of the facilities.
- B) The EDC may agree to permit an applicant to arrange for a third party to design and construct the required interconnection facilities. In such a case, the EDC shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the EDC's specifications. The applicant shall ensure that any third party with whom it shares the EDC's relevant information and required specifications shall comply with applicable security and confidentiality requirements.
- C) Upon completion of the interconnection facilities study, and after the applicant agrees to pay any just and reasonable costs for the interconnection facilities and system upgrades identified in the interconnection facilities study, the EDC shall provide to the applicant a standard distributed generation interconnection agreement (see Appendix C) for the applicant to sign. The applicant has 10 business days to sign the agreement or the application is deemed withdrawn.
- D) In the event that system upgrades are identified in the impact study that shall be added only in the event that higher-queued customers not yet interconnected eventually complete and interconnect their generation facilities, the applicant may elect to interconnect

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

without paying for such upgrades at the time of the interconnection, provided that it agrees to pay for the upgrades at the time the higher-queued customer is ready to interconnect. If the applicant does not pay for the upgrades at that time, the EDC shall require the applicant to immediately disconnect its distribution generation facility to accommodate the higher-queued customer.

- E) The parties shall use an interconnection facilities study agreement, included as Appendix F, unless both parties agree to use an alternative form.
- f) When an EDC determines that it is appropriate to interconnect the distributed generation facility, the EDC shall provide the applicant with a standard distributed generation interconnection agreement. If the interconnection request is denied, the EDC shall provide the applicant with a written explanation as to its reasons for denying interconnection. If the EDC's written explanation demonstrates that the interconnection request was denied for valid reasons, the interconnection request does not retain its queue position.
- g) Within 30 business days after receipt of the standard distributed generation interconnection agreement, the applicant shall provide all necessary information required of the applicant by the agreement. The EDC shall develop all other information required of the EDC by the agreement. After completing the agreement, the applicant shall sign and return the agreement to the EDC. If the applicant does not sign and return the agreement within 30 business days after its completion, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline extended by no more than 15 business days. The initial request for extension may not be denied by the EDC. If the applicant does not sign the agreement after the 15 business day extension, the interconnection request shall be deemed withdrawn unless a further extension is agreed to by the parties. If withdrawn, the interconnection request does not retain its queue position. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the distributed generation interconnection agreement.
- h) The distributed generation interconnection agreement is not final until:
 - 1) The requirements of the interconnection agreement are satisfied; and

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) The distributed generation facility is approved by any electric code officials with jurisdiction over the interconnection; and
- 3) The applicant provides a certificate of completion (see Appendix A) to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- 4) The witness test is successfully completed if required by the EDC or if the witness test is waived according to Article 2.1.1 of Appendix C.

(Source: Amended at 41 Ill. Reg. 958, effective January 20, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Recording of Proceedings at Meetings and Hearings
- 2) Code Citation: 68 Ill. Adm. Code 1120
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1120.10	Amendment
1120.30	Amendment
1120.40	Repealed
1120.55	New Section
1120.60	Amendment
- 4) Statutory Authority: Implementing Section 2.05 of the Open Meetings Act [120 ILCS 5] and authorized by Sections 5-625 [20 ILCS 5/5-625] and 2105-115 [20 ILCS 2105/2105-115] of the Civil Administrative Code of Illinois
- 5) Effective Date of Rules: January 27, 2017
- 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) Date Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 13745; October 7, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: The Department internally identified areas of the Open Meeting Act rules, which were out of date as they do not accurately capture modern technology and do not address the public's ability to make public comments at Department Board and Committee meetings. This adopted rulemaking provides clean-up and clarity of the Department's Open Meeting Act rules, which had not been updated since 1988.
- 16) Information and questions regarding these adopted rules shall be directed 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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION
SUBCHAPTER a: ADMINISTRATIVE RULESPART 1120
RECORDING OF PROCEEDINGS AT MEETINGS AND HEARINGS

Section	
1120.10	Statutory Authority
1120.20	Purpose
1120.30	Proceedings May Be Recorded
1120.40	Witness Refusal (Repealed)
1120.50	Proper Order and Decorum
1120.55	Public Comments
1120.60	Granting Variances

AUTHORITY: Implementing Section 2.05 of the Open Meetings Act [120 ILCS 5] and authorized by Sections 5-625 [20 ILCS 5/5-625] and 2105-115 [20 ILCS 2105/2105-115] of the Civil Administrative Code of Illinois.

SOURCE: Adopted at 3 Ill. Reg. 6, p. 34, effective February 5, 1979; codified at 5 Ill. Reg. 11018; amended at 6 Ill. Reg. 8225, effective July 1, 1982; transferred from Chapter I, 68 Ill. Adm. Code 120 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1120 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2980; amended at 41 Ill. Reg. 976, effective January 27, 2017.

Section 1120.10 Statutory Authority

~~This Part is~~~~These rules are~~ promulgated pursuant to Section 2.05 of the "Open Meetings Act ([the Act](#)) [5 ILCS 120]" (~~Ill. Rev. Stat. 1979, ch. 102, par. 42.05~~).

(Source: Amended at 41 Ill. Reg. 976, effective January 27, 2017)

Section 1120.30 Proceedings May Be Recorded

Proceedings at meetings and hearings required to be open to the public by the "~~Open Meetings Act~~" may be recorded [audibly, visually, or by any other means](#) by any person, ~~by tape, film or other means~~. [Persons may be required to locate their cameras or other recording devices at a sufficient distance from the committee or board members as is necessary to avoid interference](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

with the committee's or board's discussion.

(Source: Amended at 41 Ill. Reg. 976, effective January 27, 2017)

Section 1120.40 Witness Refusal (Repealed)

~~If a witness at any meeting or hearing of the Department refuses to testify on the grounds that he may not be compelled to testify if any portion of his testimony is to be broadcast or televised or if motion pictures are to be taken of him while he is testifying, the presiding officer shall prohibit such recording during the testimony of the witness.~~

(Source: Repealed at 41 Ill. Reg. 976, effective January 27, 2017)

Section 1120.55 Public Comments

- a) Pursuant to Section 2.06(g) of the Act, any person shall be permitted an opportunity to address the committee or board so long as the person's public comments:
- 1) preserve the decorum of the meeting;
 - 2) are reasonably related to the committee's or board's agenda and/or scope of regulatory authority, as determined by the committee or board;
 - 3) are limited to a reasonable period of time, not to exceed 3 minutes unless the committee or board gives permission to exceed this time limit.
- b) Pursuant to Section 2.06(g) of the Act, members of the public shall provide at least 2 days notice of intent to address a committee or board, unless the committee or board diminishes or waives this notice requirement.

(Source: Added at 41 Ill. Reg. 976, effective January 27, 2017)

Section 1120.60 Granting Variances

- a) The ~~Secretary~~Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~where he ~~or she~~ finds that:
- 1) The provision from which the variance is granted is not statutorily

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

mandated;

- 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The ~~Secretary~~Director shall notify the appropriate ~~committee~~Committee or ~~board~~Board of the granting of ~~asuch~~ variance and the reasons for that variance~~therefore~~, at the next meeting of ~~the committeesuch~~ Committee or board~~Board~~.
- c) This Part shall not apply to Department hearings conducted by administrative law judges.

(Source: Amended at 41 Ill. Reg. 976, effective January 27, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Athletic Trainers Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1160
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1160.20	Amendment
1160.30	Amendment
1160.31	Amendment
1160.35	Amendment
1160.40	Amendment
1160.50	Amendment
1160.60	Amendment
1160.65	Amendment
- 4) Statutory Authority: Implementing the Illinois Athletic Trainers Practice Act [225 ILCS 5] and authorized by Section 2105/2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) Effective Date of Rules: January 27, 2017
- 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) Date Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 13750; October 7, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: A few technical corrections were made to the proposed version but no substantive changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: PA 99-469 was the sunset reauthorization of the Act. The sunset required changes regarding the name of an approved athletic training program and clarification regarding the temporary right to practice as an athletic trainer in Illinois. Additionally, the current limit on webinar continuing education (CE) was lifted in order to mirror the updated technological ways in which licensees complete CE. Technical and clean-up changes were also made.
- 16) Information and questions regarding these adopted rules shall be directed 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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1160
ILLINOIS ATHLETIC TRAINERS PRACTICE ACT

Section	
1160.20	Examination
1160.30	Application for Licensure by Examination
1160.31	Approved Programs
1160.35	Fees
1160.40	Renewals
1160.50	Restoration
1160.60	Application for Licensure by Endorsement
1160.64	Supervision
1160.65	Continuing Education
1160.70	Annual Report of Board (Repealed)
1160.80	Granting Variances

AUTHORITY: Implementing the Illinois Athletic Trainers Practice Act [225 ILCS 5] and authorized by Section 2105/2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Emergency Rule adopted at 10 Ill. Reg. 4759, effective March 12, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 20731, effective December 1, 1986; amended at 11 Ill. Reg. 9939, effective May 12, 1987; transferred from Chapter I, 68 Ill. Adm. Code 160 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1160 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2935; amended at 20 Ill. Reg. 2408, effective January 29, 1996; amended at 24 Ill. Reg. 3611, effective February 15, 2000; amended at 27 Ill. Reg. 9476, effective June 9, 2003; amended at 31 Ill. Reg. 16823, effective December 13, 2007; amended at 41 Ill. Reg. 981, effective January 27, 2017.

Section 1160.20 Examination

- a) The examination for licensure shall be the certification examination for the ~~Board of Certification for the Athletic Trainer (formerly known as the~~ National Athletic Trainers Association Board of Certification (BOC) or its successor agency.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- b) Candidates shall make application for the examination, and pay the examination fee, directly to the designated testing service.
- c) Unsuccessful candidates may retake the examination as many times as they wish. Retake application shall be made to the designated testing service.
- d) Application to the designated testing service for purposes of taking the examination shall not constitute application to the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) and shall not entitle an applicant to practice on a temporary basis under the provisions of Section 4(5) of the [Illinois Athletic Trainers Practice Act \(the Act\)](#).

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.30 Application for Licensure by Examination

- a) Any person seeking licensure as an athletic trainer shall file an application with the Division on forms provided by the Division. The application shall include the following:
 - 1) Certification of graduation from an athletic training program approved in accordance with Section 1160.31 ~~of this Part~~ or a program approved by the [Commission on Accreditation of Athletic Training Education \(CAATE\)](#) ~~Joint Review Committee on Athletic Training of the Committee on Accreditation of Allied Health Education Programs~~ or its successor agency;
 - 2) Verification of successful completion of the examination set forth in Section 1160.20 received directly from the designated testing service;
 - 3) The required fee specified in Section 1160.35(a) ~~of this Part~~; and
 - 4) Proof of current certification in cardiopulmonary resuscitation (CPR) ~~and~~ automated external defibrillation (AED) for ~~the~~ Healthcare [Providers and Professional Rescuers](#) or its equivalent based on American Red Cross or American Heart Association standards.
- b) An applicant who applies to the Division in accordance with subsection (a) is

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

eligible to practice temporarily in accordance with the provisions of Section 4 of the ~~Illinois Athletic Trainers Practice Act (the Act)~~.

- 1) An applicant who has not yet taken the required examination may practice, under the supervision of a licensed athletic trainer, pending examination in accordance with the provisions of Section 4(5) of the Act, for no longer than 3 months. If an applicant fails the examination, he/she shall cease practice immediately. Practicing after failure of an examination or beyond the 3 months shall be considered the unlicensed practice of athletic training.
- 2) An applicant who has applied in writing to the Division for licensure and has complied with all the provisions of Section 9 of the Act may practice in accordance with the provisions of Section 4(9) for no longer than 6 months or until notification has been given that licensure has been granted or denied. Practicing after denial of an application or beyond the 6 months shall be considered the unlicensed practice of athletic training.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.31 Approved Programs

- a) In determining whether a program shall be approved, the Division shall take into consideration, but not be bound by, accreditation or approval by ~~CAATE the Joint Review Committee on Athletic Training of the Commission on Accreditation of Allied Health Education Programs~~ or its successor entity.
- b) ~~All~~The Division has determined that all athletic training programs accredited or approved by ~~CAATE the Joint Review Committee on Athletic Training of the Commission on Accreditation of Allied Health Education Programs~~ as of January 1, 2006 meet the minimum criteria set forth in this Section and are, therefore, approved.
- c) The Division, upon recommendation of the Illinois Board of Athletic Trainers (the Board), may approve athletic training programs that are not accredited or approved by ~~CAATE the Joint Review Committee on Athletic Training of the Commission on Accreditation of Allied Health Education Programs~~, provided the institution:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree or master's degree;
 - 2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their area of teaching from professional colleges or institutions;
 - 3) Has a designated program director;
 - 4) Has a curriculum that covers the domains of athletic training as stated in the Role Delineation Study, 7th Edition, published by the [BOC, 1415 Harney St., Ste. 200, Omaha NE 68102](#) ~~Board of Certification for the Athletic Trainer, 4223 S. 143rd Circle, Omaha NE 68137~~, 2006 (this incorporation includes no later amendments or editions), or its successor agency, and provides evidence of completion of the clinical competencies established by [CAATE](#) ~~the Joint Review Committee on Athletic Training of the Commission on Accreditation of Allied Health Education Programs~~ or its successor agency.
- d) The Division or Board may require additional information in order to evaluate the program.
- e) Programs evaluated under [subsection Section 1160.31\(c\)](#) must be approved on a case-by-case basis for each licensure application.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.35 Fees

The following fees shall be paid to the Department and are nonrefundable:

- a) The fee for application for a license as an athletic trainer is \$200.
- b) The fee for application for licensure of a person licensed as an athletic trainer in another jurisdiction is \$200.
- c) The fee for renewal of an athletic trainer license is \$100 per year.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- d) The fee for application for a sponsor of continuing education (CE) is \$500.
- e) The fee for renewal as a sponsor of CEcontinuing education is \$125 per year.
- f) The fee for restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.
- g) The fee for issuance of a duplicate license or for the issuance of a replacement license for a license that has been lost or destroyed is \$20.
- h) The fee for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Division records when no duplicate license is replaced.
- i) The fee for certification of a license for any purpose is \$20.
- j) The fee for a wall certificate showing licensure is the actual cost of producing the license.
- k) The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.40 Renewals

- a) Each license issued under the Act shall expire on May 31 of even-numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and completing 40 hours of CEcontinuing education in accordance with Section 1160.65.
- b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.
- c) Practice on an expired license shall be considered the unlicensed practice of athletic training and subject to discipline or other penalties set forth in Section 16 of the Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.50 Restoration

- a) A person seeking restoration of a license that has expired for less than 5 years shall have the license restored upon payment of \$20 plus all lapsed renewal fees as set forth in Section 1160.35(g)-~~of this Part~~. A person seeking restoration of a license shall provide evidence of successful completion of 40 hours of ~~CE continuing education~~ in accordance with Section 1160.65 earned within the 2 years immediately preceding the restoration.
- b) A person seeking restoration of a license that has been placed on inactive status for less than 5 years shall have the license restored upon payment of the current renewal fee specified in Section 1160.35(d)-~~of this Part~~. A person seeking restoration of a license shall provide evidence of successful completion of 40 hours of ~~CE continuing education~~ in accordance with Section 1160.65 earned within the 2 years immediately preceding the restoration.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fees set forth in Section 1160.35, and shall provide evidence of successful completion of 40 hours of continuing education in accordance with Section 1160.65 earned within 2 years immediately preceding the application for restoration. The application shall also include one of the following documents:
 - 1) Sworn evidence of active practice in another jurisdiction. ~~The Such~~ evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of the active practice; or
 - 2) An affidavit attesting to military service as provided in Section 12 of the Act; or
 - 3) Other evidence of continued active participation in athletic training for at least the last 2 years.
 - A) The evidence shall show that he/she has been:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- i) employed in a responsible capacity under the supervision of a licensed athletic trainer; or
 - ii) ~~B) Been~~ an officer or employee of the United States government as a practicing athletic trainer; or
 - iii) ~~C) Been~~ teaching athletic training in a college or university; or
- B)D) ~~The An~~ applicant shall submit proof of an additional 20 hours of ~~CE~~continuing education in accordance with Section 1160.65 of ~~this Part~~, for a total of 60 hours.
- d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the ~~CE~~continuing education requirements.
- e) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the Division because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain ~~thesuch~~ relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Division, an applicant shall have the license restored.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

Section 1160.60 Application for Licensure by Endorsement

- a) An applicant seeking licensure in Illinois who is licensed/registered under the laws of another jurisdiction shall file an application with the Division, on forms provided by the Division, that includes:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Proof of successful completion of the examination set forth in Section 1160.20 ~~of this Part~~;
 - 2) Certification from the state or territory of the United States in which the applicant was originally licensed, and the states in which the applicant is currently licensed, stating:
 - A) The time during which the applicant was licensed/registered in that jurisdiction;
 - B) Whether the file on the applicant contains any record of disciplinary actions taken or pending;
 - 3) Proof of current certification in CPR and /AED or its equivalent based on American Red Cross or American Heart Association standards.
- b) An applicant licensed in another state who has applied in writing to the Division for licensure by endorsement may practice in accordance with the provisions of Section 4(8) of the Act. This temporary right to act as an athletic trainer shall expire 6 months after the filing of the written application with the Department, upon the withdrawal of the application for licensure under this Act, when the applicant has received a license from the Department, or upon delivery of a notice of intent to deny the application by the Department, whichever occurs first~~for no longer than 6 months or until notification has been given that licensure has been granted or denied.~~ Practicing after denial of an application or beyond the 6 months shall be considered the unlicensed practice of athletic training.
- c) The Division may request additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois or to determine whether the requirements of another state or territory, together with education and professional experience qualifications of the applicant, are substantially equivalent to the requirements in Illinois at the time of application.
- d) The Division shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1160.65 Continuing Education

- a) CE~~Continuing Education~~ Hour Requirements
- 1) ~~Renewal~~Beginning with the May 31, 1998 renewal and for every renewal thereafter, renewal applicants shall complete 40 hours of Continuing Education (CE) relevant to the practice of athletic training during each prerenewal period. The Division ~~may~~shall conduct audits, at a level consistent with its resources for conducting such an audit, to verify compliance with this Section. The prerenewal period is the 24 months preceding the expiration date of the license.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 3) Athletic trainers licensed in Illinois but residing and practicing in another state must comply with the CE requirements set forth in this Section.
- b) Activities for which CE credit may be earned are as follows:
- 1) Verified attendance or participation in any CE~~continuing education~~ course approved by the BOC or CE sponsors approved by the BOC~~Board of Certification for the Athletic Trainer, the Illinois Athletic Trainers' Association, the Illinois High School Association, or its~~their successor agency~~agencies~~.
 - 2) Verified attendance at or participation in a program given by a sponsor as set forth in subsection (c)(1)~~of this Section~~.
 - 3) A maximum of 26 hours per prerenewal period for:
 - A) Papers prepared for or delivered before recognized athletic trainer organizations;
 - B) Papers published in nationally recognized athletic training journals; and
 - C) Writing a chapter in a book about athletic training.;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- ~~D) Self study courses taken through an accredited college or university or an approved sponsor; and~~
- ~~E) Training taken via teleconferencing with a live moderator through an accredited college or university or an approved sponsor.~~
- 4) A licensee who has completed an Emergency Medical Technician training program for EMT-B, EMT-I or EMT-P certification in accordance with 77 Ill. Adm. Code 515 or who has taken ~~CE continuing education~~ for renewal of those certifications in accordance with 77 Ill. Adm. Code 515.590 may apply up to 10 hours toward meeting the ~~CE continuing education~~ hours set forth in this Section, provided the topics covered during these hours are relevant to the practice of athletic training.
- 5) A licensee who serves as an instructor, speaker or discussion leader of a course given by an approved sponsor will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course. In no case shall credit for actual time of presentation and preparation be given for more than 9 hours during any renewal period.
- 6) The ~~CE continuing education~~ hours used to satisfy the CE requirements for renewal of an athletic trainer license held in another jurisdiction shall be applied toward the CE requirements for renewal of an Illinois athletic trainer license.
- 7) College course work relevant to athletic training completed at an accredited college or university. One semester hour of course work is equivalent to 15 hours of CE and one quarter hour of course work is equivalent to 10 hours of CE.
- 8) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
- 9) CPR certification by the American Red Cross, American Heart Association, National Safety Council, or their international affiliates, or AED certification by the American Red Cross or other qualified

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

organization as authorized by the Automated External Defibrillator Act. Five hours of ~~CE continuing education~~ may be earned for one CPR ~~and/or~~ AED certification. No more than 2 certifications may be submitted per renewal.

- c) CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean:
 - A) The ~~BOC or CE sponsors approved by the BOC Board of Certification for the Athletic Trainer, the Illinois Athletic Trainers' Association, the Illinois High School Association, or its~~their successor ~~agency~~agencies;
 - B) Any other school, college or university, State agency, or any other person, firm or association that has been approved and authorized by the Division to coordinate and present ~~CE continuing education~~ courses and programs in conjunction with this Section.
 - 2) An entity seeking approval as a CE sponsor, as provided in ~~subsection Section 1160.65(c)(1)(B)~~ subsection Section 1160.65(c)(1)(B), shall file an application, along with the required fee set forth in Section 1160.35(e) ~~of this Part~~, that includes:
 - A) Certification:
 - i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(5) below and all other criteria in this Section;
 - ii) That the sponsor will be responsible for verifying attendance at each course or program and provide a certificate of completion as set forth in subsection (c)(7); and
 - iii) That, upon request by the Division, the sponsor will submit evidence as is necessary to establish compliance with this Section. ~~The Such~~ evidence shall be required when the Division has reason to believe that there is not full compliance with the Act and this Part and that this

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

information is necessary to ensure compliance;

- B) A copy of a Certificate of Attendance or Participation that meets the requirements set forth in subsection (c)(7); and
 - C) A sample of a CE course that includes, but is not limited to, course materials, books, instructor credentials.
- 3) Each sponsor shall submit by May 31 of even-numbered years a renewal application along with the required renewal fee set forth in Section 1160.35(f) of this Part. ~~With the application, the sponsor shall be required to submit to the Division a list of all courses and programs offered in the past 2 years that includes a description, location, date and time the course was offered.~~
- 4) State agencies, colleges and universities shall submit a sponsor application in accordance with subsections (c)(2) and (3); however, they shall be exempt from payment of the fee.
- 5) All courses and programs shall:
- A) Contain materials that contribute to the advancement, extension and enhancement of professional skills and knowledge in the practice of athletic training;
 - B) Specify the course objectives, course content and teaching methods to be used;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal; and
 - E) Include some mechanism whereby participants evaluate the overall quality of the program.
- 6) All programs given by sponsors shall be open to all licensed athletic trainers and not be limited to the members of a single organization or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

group.

- 7) Certificate of Attendance or Participation. It shall be the responsibility of the sponsor to provide each participant in an approved program or course with a certificate of attendance or participation that shall contain the following information:
 - A) The name, address and license number of the sponsor;
 - B) The name and license number of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of clock hours actually attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 8) The sponsor shall maintain course materials and attendance records containing all information in subsection (c)(7) for not less than 5 years, except for the signature of the sponsor.
- 9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 10) The Division, upon recommendation of the Board, shall withdraw, suspend or place on probation the approval of a CE sponsor when, at any time, the quality of the CE fails to meet the established criteria as set forth in this Section or if the sponsorship approval was based upon false or deceptive information or if any other related license of the sponsor or instructor is suspended, revoked or otherwise disciplined.
- 11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any ~~CE continuing education~~ program at any time.
- 12) The Division shall maintain a list of all approved ~~CE continuing education~~ sponsors.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- d) ~~CE~~Continuing Education Earned in Other Jurisdictions
- 1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, the applicant is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(5) ~~of this Section~~. Applicants may seek individual program approval prior to participation in the course or program. All individual program approval requests shall be submitted at least 90 days prior to the expiration date of the license.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$10 per CE hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) ~~of this Section~~.
- e) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsection (a).
 - 2) The Division may require additional documentation in order to demonstrate compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The additional documentation will be required in the context of a Division audit.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- f) Restoration of Nonrenewed License. Upon evidence of compliance with CE

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

requirements, the Division may restore the license upon payment of the required fee.

g) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, the required renewal fee, a statement setting forth the facts concerning ~~the noncompliances~~such non-compliance, and a request for waiver of the CE requirements on the basis of these facts. The applicant may request an interview with the Board at the time of the waiver request. If the Division, upon the written recommendation of the Board, finds from the applicant's affidavit or any other evidence submitted that extreme hardship has been shown to substantiate granting of a waiver, the Division shall waive enforcement of the CE requirements for the renewal period for which the applicant has applied.
- 2) If an interview with the Board is requested at the time the request for waiver 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.
- 3) Extreme hardship shall be determined on an individual basis by the Board and 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 prerenewal period;
 - B) An incapacitating illness, documented by a currently licensed physician; or
 - ~~C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or~~
 - C)D) Any other similar extenuating circumstances (i.e., family illness and prolonged hospitalization).
- 4) Any renewal applicant who, prior to the expiration date of ~~the~~his/her

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

license, submits a request for a waiver, pursuant to the provisions of this Section, shall be deemed to be in good standing and may practice until the Division's final decision on the waiver has been made.

(Source: Amended at 41 Ill. Reg. 981, effective January 27, 2017)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
140.421	Amendment
140.435	Amendment
140.469	Amendment
140.491	Amendment
140.494	Amendment
140.523	Amendment
140.TABLE D	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: January 19, 2017
- 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 materials 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*: 40 Ill. Reg. 6936; May 6, 2016 and 40 Ill. Reg. 9909; July 22, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: In section 140.421, the added text, "a handicapping malocclusion" was deleted and specific conditions that will be covered were added.

In section 140.491 changes were made to the exceptions for prior approval in section 140.491 (b). Additionally, changes were made to section 140.491 (c) allowing ambulance providers 90 days from the date of the transport to submit the discharge order and medical certification form to the Department. Also failure by the facility to complete a discharge order and medical certification prior to a non-emergency ambulance service

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

will not prevent an ambulance provider from filing an appeal of an informal review conducted by the Department. Changes were also made in section 140.491 (j). Changes were made in section 140.494 (b) to require the trip ticket to document medical necessity for non-emergency transportation that does not require an approval request.

- 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 emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
140.80	Amendment	40 Ill. Reg. 14999; November 4, 2016
140.473	Amendment	40 Ill. Reg. 15271; November 14, 2016
140.74	New Section	40 Ill. Reg. 15645; November 28, 2016
140.3	Amendment	40 Ill. Reg. 16464; December 30, 2016
140.400	Amendment	40 Ill. Reg. 16464; December 30, 2016
140.423	New Section	40 Ill. Reg. 16464; December 30, 2016
140.424	New Section	40 Ill. Reg. 16464; December 30, 2016

- 15) Summary and Purpose of Rulemaking: 140.421: The proposed amendment is to update the Orthodontic Scoring Tool currently being used by the Department of Healthcare and Family Services (Department). The tool currently used was created by the Department and is not a nationally recognized tool. Switching to the Handicapping Labio-Lingual Deviation Index (HLD), which is a tool that is utilized and recognized amongst the dental community, will conform the Department’s criteria to many of our surrounding states.

140.435: The proposed amendment implements revisions to collaborative agreement requirements pursuant to the Nurse Practice Act.

140.469: The proposed amendments are due to revisions to the Medicare hospice program related to payment for routine home care and payment for a new service intensity add-on. The payment changes affect Medicaid hospice payments because Medicaid hospice rates are calculated based on the annual hospice rates established under Medicare.

140.491, 494: The proposed amendments are due to a policy change which allows ambulance providers more time to submit documentation for an appeal, changes what

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

types of documentation can be submitted for an appeal and removes limitations to filing of appeals by ambulance providers.

140.523: The proposed amendment adds language regarding the payment of therapeutic bed holds for certain facilities with residents who have a TBI diagnosis.

140.TABLE D: The proposed rulemaking clarifies language that allows children in need of dental services the ability to receive those services in an office or school setting.

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

Mollie Zito
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
- 140.55 Electronic Data Interchange Service
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.86 Supportive Living Facility Funds

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

- Section
- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 Non-Institutional Rate Reductions
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.436	Limitations on Advanced Practice Nurse Services
140.438	Diagnostic Imaging Services
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
140.446	Over-the-Counter Items
140.447	Reimbursement
140.448	Returned Pharmacy Items
140.449	Payment of Pharmacy Items
140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Care, Nursing and Public Health Providers
140.471	Description of Home Health Care Services
140.472	Types of Home Health Care Services
140.473	Prior Approval for Home Health Care Services
140.474	Payment for Home Health Care Services
140.475	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478	Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.479	Limitations, Medical Supplies
140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation Limitations and Authorization Process
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 140.560 Components of the Base Rate Determination
- 140.561 Support Costs Components
- 140.562 Nursing Costs
- 140.563 Capital Costs
- 140.565 Kosher Kitchen Reimbursement
- 140.566 Out-of-State Placement
- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
- 140.569 Clients With Exceptional Care Needs
- 140.570 Capital Rate Component Determination
- 140.571 Capital Rate Calculation
- 140.572 Total Capital Rate
- 140.573 Other Capital Provisions
- 140.574 Capital Rates for Rented Facilities
- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)
- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section

140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section	
140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)
140.928	Client Enrollment and Program Components (Repealed)
140.930	Reimbursement
140.932	Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND
REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section	
140.940	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.942	Definition of Terms (Recodified)
140.944	Notification of Negotiations (Recodified)
140.946	Hospital Participation in ICARE Program Negotiations (Recodified)
140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section

140.990	Primary Care Case Management Program
140.991	Primary Care Provider Participation Requirements
140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
140.997	Payment for Services

SUBPART J: ALTERNATE PAYEE PARTICIPATION

Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee

SUBPART K: MANDATORY MCO ENROLLMENT

Section

140.1010	Mandatory Enrollment in MCOs
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SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section

140.1300	Definitions
140.1310	Recovery of Money
140.1320	Penalties
140.1330	Enforcement
140.TABLE A	Criteria for Non-Emergency Ambulance Transportation
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
140.TABLE J	Rate Regions
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Reg. 18323, effective November 12, 2008; preemptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; preemptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 999, effective January 19, 2017.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.421 Limitations on Dental Services

Effective for dates of service on or after July 1, 2014:

- a) The Department shall impose prior approval requirements to determine the medical necessity of dental services listed in this Section. Prior approval is required for:
 - 1) Crowns;
 - 2) Partial Pulpotomy;
 - 3) Periodontal services, except full mouth debridement for diagnostic purposes, ages 0-20;
 - 4) Apexification and recalcification;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Apicoectomy;
- 6) Dentures, partial dentures and denture relines;
- 7) Maxillofacial prosthetics;
- 8) Prosthodontics;
- 9) Removal of impacted teeth;
- 10) Surgical removal of residual roots;
- 11) Surgical exposure to aid eruption;
- 12) Alveoloplasty;
- 13) Incision and drainage of abscess;
- 14) Removal of cysts or tumors;
- 15) Frenulectomy;
- 16) Orthodontics. Effective January 1, 2017, medically necessary orthodontic treatment is approved only for patients under the age of 21 ~~ages 0-20~~ and is defined as:
 - A) treatment necessary to correct a condition ~~that~~which scores 2842 points or more on the Handicapping Labio-Lingual Deviation Index (HLD); or ~~Salzmann Index, or~~
 - B) treatment necessary to correct the following conditions:a handicapping malocclusion (a condition that impairs or creates a hazard in eating, chewing, speaking or breathing)
 - i) Cleft palate;
 - ii) Deep impinging bite with signs of tissue damage, not just touching palate;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

iii) Anterior crossbite with gingival recession; and

iv) Severe traumatic deviation (i.e., accidents, tumors, etc.; attach description);

- 17) General anesthesia, conscious sedation or deep sedation;
 - 18) Therapeutic drug injection;
 - 19) Other drugs and medicaments;
 - 20) Unspecified miscellaneous adjunctive general services or procedures;
 - 21) Dental services not listed in Table D.
- b) The dentist may request post-approval when a dental procedure requiring prior approval is provided on an emergency basis. Approval of the procedures shall be given if the dental procedure is medically necessary.

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

Section 140.435 Advanced Practice Nurse Services

- a) For purposes of enrollment in the Medical Assistance Program, an advanced practice nurse (APN) means a person who is licensed as a registered professional nurse, holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the Nurse Practice Act [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and implementing rules (68 Ill. Adm. Code 1305). Categories of APNs include:
- 1) Certified Registered Nurse Anesthetist (CRNA);
 - 2) Certified Nurse Midwife (CNM);
 - 3) Certified Nurse Practitioner (CNP); and
 - 4) Clinical Nurse Specialist (CNS).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- b) A written collaborative agreement with a collaborating physician or practitioner is required for all APNs engaged in clinical practice, except for APNs practicing in a hospital, a hospital affiliate or an Ambulatory Surgical Treatment Center. An APN must have and maintain a current collaborative or written practice agreement with a collaborating physician or practitioner under whom the APN will be practicing, as set forth in the Nurse Practice Act.
- e) Depending on the site of care, CRNAs may or may not be required to possess a written collaborative or written practice agreement as set forth in the Nurse Practice Act. CRNAs may work in a hospital, a physician's, dentist's or podiatrist's office, or an Ambulatory Surgical Treatment Center.
- cd) The agreement or agreements required under subsections~~subsections~~ (b) and (e) shall comply with all requirements ~~as~~ described in the Nurse Practice Act and 68 Ill. Adm. Code 1300+305. Agreements required under the Act and 68 Ill. Adm. Code 1300+305 must be updated, be maintained on file at each practice location, and be available upon the Department's request.
- de) The APN must notify the Department within 10 business days if an agreement is dissolved or if a change occurs in the collaborating physician, dentist or podiatric physician~~or practitioner~~ under the agreement. The Department will then re-evaluate the APN's enrollment status.
- ef) The collaborating physician, dentist or podiatric physician~~or practitioner~~ is not required to be enrolled with the Department. However, the collaborating physician or practitioner may not be terminated, suspended or barred by the Department from participating in the Medical Assistance Program.
- fg) An APN who is required to maintain a collaborative or written practice agreement must submit the following information with the initial application for enrollment:
- 1) Documentation of specialty of practice.
 - 2) Name and address of collaborating physician, dentist or podiatric physician.~~Collaborating physician's or practitioner's name and address.~~
 - 3) Collaborating physician's or practitioner's Federal Employer Identification Number (FEIN) of collaborating physician, dentist or podiatric physician.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 4) ~~Medical Collaborating physician's or practitioner's medical~~ license number of collaborating physician, dentist or podiatric physician.
- 5) ~~State Collaborating physician's or practitioner's state~~ of licensure, if other than Illinois, and address of collaborating physician, dentist or podiatric physician.
- h) ~~An APNA-CRNA~~ who is not required to maintain a collaborative or written practice agreement and who provides services in a hospital, hospital affiliate or Ambulatory Surgical Treatment Center setting must submit with the initial application for enrollment the names and addresses of the hospitals or Ambulatory Surgical Treatment Centers where he or she practices.
- i) To be eligible for reimbursement for individual psychiatric services, as defined in the American Medical Association Current Procedural Terminology (CPT) book, CPT code range ~~90791-90801~~ through 90899, ~~excluding 90853~~, the rendering APN must hold a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code ~~1300.1305~~.Appendix A.

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

Section 140.469 Hospice

- a) Hospice is a continuum of palliative and supportive care, directed and coordinated by a team of professionals and volunteer workers who provide care to terminally ill persons to:
 - 1) reduce or abate pain or other symptoms of mental or physical distress; and
 - 2) meet the special needs arising out of the stresses of terminal illness, dying or bereavement.
- b) Hospice care is a covered service for all eligible clients, including residents of intermediate and skilled care facilities, when provided by a Medicare certified hospice provider and in accordance with provisions contained in section 1902(a)(13)(B), 1905(o)(1) and 2110(a)(23) of the Social Security Act (42 USC 1396a(a)(13)(B), 1396d(o)(1) and 1397jj(a)(23)).
- c) Covered services include:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Nursing care;
 - 2) Physician services;
 - 3) Medical social services;
 - 4) Short term inpatient care;
 - 5) Medical appliances, supplies and drugs;
 - 6) Home health aide services;
 - 7) Occupational, physical and speech-language therapy services to control symptoms; and
 - 8) Counseling services.
- d) Reimbursement shall be at the rate established by the Centers for Medicare and Medicaid Services for the specific level of care into which each day of care is classified. The Medicaid hospice payment rates are calculated based on the annual hospice rates established under section 1814(i)(1)(C)(ii) of the Social Security Act and 42 CFR 418.306. The four levels of care are:
- 1) Routine Home Care. The hospice will be paid the routine home care rate for each day the patient is at home, under the care of the hospice, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day. Effective with dates of service on and after January 1, 2016 and, for patients who have hospice elections on file with a beginning date on or after January 1, 2016, routine home care rates are differentiated between days 1 through 60 and days 61 and beyond.
 - 2) Continuous Home Care. The continuous home care rate will be paid when continuous home care is provided. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate. A minimum of eight hours must be provided. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to 24 hours a day.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) Inpatient Respite Care. The inpatient rate will be paid each day on which the beneficiary is in the approved inpatient facility and is receiving respite care. Payment for respite care may be made for a maximum of five days at a time, including the date of admission, but not counting the date of discharge. Payment for the sixth day and any subsequent days is to be made at the routine home care rate.
- 4) General Inpatient Care. The inpatient rate will be paid when general inpatient care is provided. None of the other fixed payment rates (i.e., routine home care) will be applicable for a day on which the patient receives hospice inpatient care except for the day of discharge from an inpatient unit. In which case, the appropriate home care rate is to be paid unless the patient dies as an inpatient.
- e) When the individual resides in an ICF or SNF facility, the Department shall provide payment of an add-on amount to the hospice on routine home care and continuous home care days. The add-on amount will constitute a portion of the facility rate the State would be responsible for as mandated by 42 CFR 418.1 through 418.205. The add-on amount for county-owned/operated nursing facilities shall be based on the rates established pursuant to Section 140.530(c)(1).
- f) The hospice shall receive an add-on amount for other physician services such as direct patient care when physician services are provided by an employee of the hospice or under arrangements made by the hospice unless those services are performed on a volunteer basis. These add-on amounts will be utilized when determining the hospice cap amount.
- g) In accordance with 42 CFR 418.302, effective with service dates on and after January 1, 2016, a service intensity add-on payment may be billed for visits by a social worker or registered nurse as defined in 42 CFR 418.114, when provided during routine home care during the last seven days of life.
- hg) Medicaid payment to a hospice provider for care furnished over the period of a year shall be limited by a payment cap as set forth in 42 CFR 418.309. Any overpayment shall be refunded by the hospice provider.
- ih) Effective with dates of service on and after July 1, 2012, the following services will not be covered outside of the hospice program benefit for patients 21 years of

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

age and older electing hospice care. The following services will not be paid separately:

- 1) Dental services;
- 2) Optometric services and eyewear;
- 3) Nursing services provided by registered nurses and licensed practical nurses;
- 4) Physical therapy services;
- 5) Occupational therapy services;
- 6) Speech therapy services;
- 7) Audiology services;
- 8) General clinic services;
- 9) Psychiatric clinic Type A services;
- 10) Psychiatric clinic Type B services;
- 11) Hospital outpatient physical rehabilitation;
- 12) Healthy Kids services;
- 13) Mental health rehabilitation option;
- 14) Alcohol and substance abuse rehabilitation services;
- 15) Medical equipment;
- 16) Medical supplies;
- 17) Social work services;
- 18) Psychological services;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 19) Home health services;
- 20) Homemaker services; and
- 21) Palliative drugs.

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

Section 140.491 ~~Limitations on Medical Transportation~~ Limitations and Authorization Process

- a) For payment to be made, the transportation service must be to the nearest available appropriate provider, by the least expensive mode that is adequate to meet the individual's need. When public transportation is available and is a practical form of transportation, payment will not be made for a more expensive mode of transportation.
- b) Approval from the Department, or its authorized agent, is required prior to providing transportation to and from the source of medical care, except:
 - 1) For transportation provided by an ambulance in emergency situations.
 - 2) For transportation provided by an ambulance for an individual who is transported from one hospital to a second hospital for services not available at the sending hospital.
 - 3) For transportation provided by a helicopter when it is demonstrated to be medically necessary as indicated by the written order of the responsible physician in an emergency situation. An emergency may include, but is not limited to:
 - A) life threatening medical conditions;
 - B) severe burns requiring treatment in a burn center;
 - C) multiple trauma;
 - D) cardiogenic shock; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- E) high-risk neonates.
- 4) [When post-authorization, informal review of request for appeal, and appeal are allowed.](#)
- c) Requirements for non-emergency ambulance services for discharging patients, medical certifications and orders, for dates of service beginning July 1, 2013.
- 1) Whenever a patient covered by a medical assistance program under this Part, or by another medical program administered by the Department, is being discharged from a facility, a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, who is responsible for the diagnosis and treatment of the patient, shall complete a written and signed discharge order for each patient whose discharge requires medically supervised ground ambulance services. The order shall specify the level of ground ambulance services needed.
 - 2) A medical certification establishing that the patient's condition meets the Department's criteria for approval of non-emergency ambulance service, as set forth in Table A, must be completed by a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, who is responsible for the diagnosis and treatment of the patient. Should the medical certification form, published by the Department, serve as the discharge order, it must be signed or authenticated, as allowed under Illinois law, by a physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff.
 - 3) Each physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, may designate another licensed healthcare provider or discharge planner, not employed by a transportation provider, to complete the

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

medical certification form. The physician, or, in the case of a Long Term Care Facility, the Medical Director, or a licensed healthcare provider acting within his or her scope of practice and in accordance with the privileges granted by the medical staff, remains responsible for the accuracy of the medical certification, authentication of the discharge order, and any determination that the patient's condition meets the requirements for the Department's criteria for non-emergency ambulance transports, as set forth in Table A.

- 4) Facilities shall develop procedures to ~~facilitate~~ensure the completion of the discharge order and the medical certification form prior to the patient's discharge from the facility and prior to the non-emergency ambulance service. The ambulance service provider shall have 90 days from the date of the transport to submit the discharge order and medical certification form to the Department or its agent.
- 5) Failure by a facility to complete a discharge order and medical certification form prior to a non-emergency ambulance service shall not prevent an ambulance provider as described in Section 140.490(a)(1) from filing an appeal of an informal review conducted by the Department or its authorized agent pursuant to 89 Ill. Adm. Code 104.205(d).
- d) To be eligible for non-emergent ambulance transportation, the services must meet the criteria set forth in Table A. The Department or its agent may require documentation to prove that the services meet the criteria set forth in Table A.
- e) An on-going prior approval, with duration of up to six months, may be obtained when subsequent trips to the same medical source are required. When prior approval is sought for subsequent trips to the same medical service, the client's physician or other medical provider must supply the Department, or its authorized agent, with a brief written statement describing the nature of the medical need, the necessity for on-going visits, already established appointment dates and the number and expected duration of the required on-going visits.
- f) The Department shall refuse to accept requests for non-emergency transportation authorizations, including prior approval and post-approval requests, and shall terminate prior approvals for future dates, for a specific non-emergency transportation vendor, if:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) the Department has initiated a notice of termination of the vendor from participation in the Medical Assistance Program; or
- 2) the Department has issued a notification of its withholding of payments due to reliable evidence of fraud or willful misrepresentation pending investigation; or
- 3) the Department has issued notification of its withholding of payments based upon any of the following individuals having been indicted or otherwise charged under a law of the United States or Illinois or any other state with a felony offense that is based upon alleged fraud or willful misrepresentation on the part of the individual related to:
 - A) the Medical Assistance Program;
 - B) a Medical Assistance Program provided in another state that is of the kind provided in Illinois;
 - C) the Medicare program under Title XVIII of the Social Security Act; or
 - D) the provision of health care services:
 - i) if the vendor is a corporation, an officer of the corporation or an individual who owns, either directly or indirectly, five percent or more of the shares of stock or other evidence of ownership of the corporation; or
 - ii) if the vendor is a sole proprietorship, the owner of the sole proprietorship; or
 - iii) if the vendor is a partnership, a partner of the partnership; or
 - iv) if the vendor is any other business entity authorized by law to transact business in the state, an officer of the entity or an individual who owns, either directly or indirectly, five percent or more of the evidences of ownership of the entity.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- g) If it is not possible to obtain prior-approval for non-emergency transportation, post-approval must be requested from the Department or its authorized agent.
- h) Post-approval may be requested for items or services provided during Department non-working hours or non-working hours of its agents, whichever is applicable, or when a life threatening condition exists and there is not time to call for approval.
- i) To be eligible for post-approval consideration, the requirements for prior-approval must be met and post-approval requests must be received by the Department or its agents, whichever is applicable, no later than 30 calendar~~20 work~~ days after the date services are provided. A request for payment submitted to a third party payor will not affect the submission time frames for any post-approval request. Exceptions to the aforementioned post-approval request time frames will be permitted only in the following circumstances:
- 1) The Department or the Department of Human Services has received the patient's Medical Assistance Application, but approval of the application has not been issued as of the date of service. In such a case, the post-approval request must be received no later than 90 calendar days after the date of the Department's Notice of Decision approving the patient's application.
 - 2) The patient did not inform the provider of his or her eligibility for Medical Assistance. In such a case, the post-approval request must be received no later than six months after the date of service, but will be considered for payment only if there is attached to the request a copy of the provider's dated private pay bill or collection response, which was addressed and mailed to the patient each month after the date of service.
- j) An ambulance provider as described in Section 140.490(a)(1) may appeal any decision by the Department or its authorized~~prior~~ approval agent for which:
- 1) No~~o~~ denial or approval was received prior to the time of the non-emergency transport, ~~that either denies a request for approval for payment of non-emergency transportation by means of ground ambulance service or grants a request for approval of non-emergency transportation by means of ground ambulance at a level of service that~~
 - 2) An approval decision entitles the ~~ground~~ ambulance service provider to a

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

lower level of compensation from the Department than the ~~ground~~ ambulance service provider would have received as compensation for the level of service requested.

- 3) The ~~ground~~ ambulance service provider shall have ~~9060~~ calendar days from the date ~~of service~~~~the decision is received~~ to file ~~a request for informal review of the request for an~~ appeal in accordance with 89 Ill. Adm. Code 104.205. The decision date ~~and appeal deadline~~ will appear on notices generated by the Department or its prior approval agent, ~~related to approvals and denials of non-emergency transportation services.~~

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

Section 140.494 Record Requirements for Medical Transportation Services

- a) The record must, at a minimum, contain a dispatcher's log and individual trip tickets that document:
- 1) Identification of the client (name, address and client number);
 - 2) Name and address or facility name of person or entity requesting service;
 - 3) A copy of the Transportation Invoice;
 - 4) Identification of the type of vehicle used (for example, ambulance, medicar, service car) and the vehicle's license plate number; and
 - 5) The name of the driver and attendant, if applicable.
- b) The trip ticket must document medical necessity for the following:
- 1) Non-emergency transportation that does not require ~~an~~~~prior~~ approval ~~request~~;
 - 2) Use of an ambulance;
 - 3) Administration of oxygen;
 - 4) Use of an attendant by a medicar, service car or a taxicab company; and

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 5) Use of a stretcher by a medicar.
- c) Advanced Life Support transportation services must also maintain a copy of the Emergency Medical Services Run Sheets or other forms as required by the Illinois Department of Public Health.
- d) In absence of proper and complete records, including, but not limited to, failure to provide documentation of safety training certification as required in Section 140.490(f), payments previously made shall be recouped.

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

SUBPART E: GROUP CARE

Section 140.523 Bed Reserves

- a) Effective for dates of service on or after July 1, 2012, no payments for bed reserve days will be made to a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Rehabilitation Act [210 ILCS 48]. However, beginning June 1, 2015, for purposes of therapeutic home visits for individuals scoring as TBI on the MDS 3.0, payment shall be approved for bed reserve days in facilities that have at least a 90% occupancy level if at least 80% of their residents are Medicaid eligible. Payment shall be at 75% of the facility's current Medicaid per diem rate and shall not exceed 10 days in a calendar month.
- b) Effective July 22, 2013, ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)
 - 1) All bed reserves must:
 - A) be authorized by the interdisciplinary team (IDT); and
 - B) be limited to residents who desire to return to the same facility.
 - 2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.
- 4) For persons who are under 21 years of age, payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:
 - A) 100% of a facility's current Medicaid per diem for the first 10 days of an admission to a hospital;
 - B) 75% of a facility's current Medicaid per diem for days 11 through 30 of the admission;
 - C) 50% of a facility's current Medicaid per diem for days 31 to 45 of the admission.
- 5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:
 - A) 100% of a facility's current Medicaid per diem for a period not to exceed 10 days per State fiscal year;
 - B) 75% of a facility's current Medicaid per diem for a period ~~that~~which exceeds 10 days per State fiscal year.

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 140. TABLE D Schedule of Dental Procedures

Effective ~~January 1, 2016~~July 1, 2014. Additional dental services may be approved based on medical necessity.

- a) Diagnostic Services
 - 1) Clinical Oral Evaluations
 - A) Oral Exams (ages 0-20) – limited to one every 6 months per patient in an office ~~and/or~~ school setting
 - B) Limited Exam (ages 0-99)
 - C) Comprehensive Exam (ages 0-99)
 - 2) X-rays (ages 0-99)
- b) Preventive Services (ages 0-20)
 - 1) Prophylaxis – limited to one every 6 months per patient in an office or school setting
 - 2) Topical Application of Fluoride – limited to one every 6 months per patient in an office or school setting
 - 3) Fluoride Varnish – limited to three per 12 months per patient ages 0-2 years in an office setting
 - 4) Sealants – limited to one per lifetime per tooth regardless of place of service
 - 5) Space Maintenance – limited to one per lifetime per quadrant
- c) Restorative Services (ages 0-99)
 - 1) Amalgams
 - 2) Resins

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 3) Crowns
- 4) Other Restorative Services
- d) Endodontic Services (ages 0-20)
 - 1) Pulpotomy
 - 2) Endodontic Therapy (ages 21 and over; limited to anterior teeth only)
 - 3) Apexification/Recalcification Procedures
 - 4) Apicoectomy/Periradicular Services
- e) Periodontal Services (ages 0-20)
 - 1) Surgical Services
 - 2) Non-Surgical Periodontal Services
 - 3) Other Periodontal Services
- f) Removable Prosthodontic Services (ages 0-99)
 - 1) Complete Denture
 - 2) Partial Denture (ages 0-20)
 - 3) Repairs to Complete Denture
 - 4) Repairs to Partial Denture
 - 5) Denture Reline Procedures
- g) Maxillofacial Prosthetics (ages 0-99)
- h) Prosthodontics Fixed (ages 0-20)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Fixed Partial Denture Pontics
- 2) Fixed Partial Denture Retainers – Crowns
- 3) Other Fixed Partial Denture Services
- i) Oral and Maxillofacial Services (ages 0-99)
 - 1) Extractions
 - 2) Surgical Extractions
 - 3) Other Surgical Procedures
 - 4) Alveoloplasty
 - 5) Surgical Excision of Intra-osseous Lesions
 - 6) Surgical Incision
 - 7) Treatment of Fractures – Simple
 - 8) Treatment of Fractures – Compound
 - 9) Reduction of Dislocation and Management of Other Temporomandibular Joint Dysfunctions
 - 10) Other Repair Procedures
- j) Orthodontic Services (ages 0-20)
 - 1) Comprehensive Orthodontic
 - 2) Other Orthodontic Services
- k) Adjunctive General Services (ages 0-99)
 - 1) Unclassified Treatment

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 2) Anesthesia
- 3) Professional Consultation
- 4) Drugs

(Source: Amended at 41 Ill. Reg. 999, effective January 19, 2017)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
148.160	Amendment
148.170	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rules: January 19, 2017
- 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 materials 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*: 40 Ill. Reg. 13504; September 30, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 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: These amendments implement revisions to the inpatient and outpatient payment methodologies for large public hospitals.
- 16) Information and questions regarding these adopted rules shall be directed to:

Mollie Zito

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments (Repealed)
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments (Repealed)
148.100	County Trauma Center Adjustment Payments
148.103	Outpatient Service Adjustment Payments (Repealed)
148.105	Reimbursement Methodologies for Inpatient Rehabilitation Services
148.110	Reimbursement Methodologies for Inpatient Psychiatric Services
148.112	Medicaid High Volume Adjustment Payments
148.115	Reimbursement Methodologies for Long Term Acute Care Services
148.116	Reimbursement Methodologies for Children's Specialty Hospitals
148.117	Outpatient Assistance Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Large Public Hospitals
- 148.170 Payment Methodology for University-Owned Large Public Hospitals
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act (Repealed)
- 148.180 Payment for Pre-operative Days and Patient Specific Orders
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems (Repealed)
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions (Repealed)
- 148.230 Admissions Occurring on or after September 1, 1991 (Repealed)
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals (Repealed)
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates (Repealed)
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals (Repealed)
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements (Repealed)
- 148.285 Excellence in Academic Medicine Payments (Repealed)
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments
- 148.296 Transitional Supplemental Payments
- 148.297 Physician Development Incentive Payments
- 148.298 Pediatric Inpatient Adjustment Payments (Repealed)
- 148.299 Medicaid Facilitation and Utilization Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives (Repealed)
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Sub-acute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute~~Sub-acute~~ Alcoholism and Substance Abuse Treatment

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

	Services (Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments (Repealed)
148.404	Medicaid High Volume Adjustment Payments (Repealed)
148.406	Intensive Care Adjustment Payments (Repealed)
148.408	Trauma Center Adjustment Payments (Repealed)
148.410	Psychiatric Rate Adjustment Payments (Repealed)
148.412	Rehabilitation Adjustment Payments (Repealed)
148.414	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420	Obstetrical Care Adjustment Payments (Repealed)
148.422	Outpatient Access Payments (Repealed)
148.424	Outpatient Utilization Payments (Repealed)
148.426	Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428	Rehabilitation Hospital Adjustment Payments (Repealed)
148.430	Perinatal Outpatient Adjustment Payments (Repealed)
148.432	Supplemental Psychiatric Adjustment Payments (Repealed)
148.434	Outpatient Community Access Adjustment Payments (Repealed)
148.436	Long Term Stay Hospital Per Diem Payments
148.440	High Volume Adjustment Payments
148.442	Inpatient Services Adjustment Payments
148.444	Capital Needs Payments
148.446	Obstetrical Care Payments
148.448	Trauma Care Payments
148.450	Supplemental Tertiary Care Payments
148.452	Crossover Care Payments
148.454	Magnet Hospital Payments
148.456	Ambulatory Procedure Listing Increase Payments
148.458	General Provisions
148.460	Catastrophic Relief Payments (Repealed)
148.462	Hospital Medicaid Stimulus Payments (Repealed)
148.464	General Provisions
148.466	Magnet and Perinatal Hospital Adjustment Payments
148.468	Trauma Level II Hospital Adjustment Payments
148.470	Dual Eligible Hospital Adjustment Payments
148.472	Medicaid Volume Hospital Adjustment Payments
148.474	Outpatient Service Adjustment Payments

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

148.476	Ambulatory Service Adjustment Payments
148.478	Specialty Hospital Adjustment Payments
148.480	ER Safety Net Payments
148.482	Physician Supplemental Adjustment Payments
148.484	Freestanding Children's Hospital Adjustment Payments
148.486	Freestanding Children's Hospital Outpatient Adjustment Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section	
148.700	General Provisions

SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

Section	
148.800	General Provisions
148.810	Definitions
148.820	Individual Eligibility for the Program
148.830	Providers Participating in the Program
148.840	Stabilization and Discharge Practices
148.850	Medication Management
148.860	Community Connect IMD Hospital Payment
148.870	Community Connect TCM Agency Payment
148.880	Program Reporting

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 148.TABLE A Renal Participation Fee Worksheet
148.TABLE B Bureau of Labor Statistics Equivalence
148.TABLE C List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; expedited correction at 38 Ill. Reg. 12618, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737, effective August 15, 2012; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 148.70(g) at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 15, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; emergency rulemaking at 37 Ill. Reg. 5082, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10432, effective June 27, 2013; amended at 37 Ill. Reg. 17631, effective October 23, 2013; amended at 38 Ill. Reg. 4363, effective January 29, 2014; amended at 38 Ill. Reg. 11557, effective May 13, 2014; amended at 38 Ill. Reg. 13263, effective June 11, 2014; amended at 38 Ill. Reg. 15165, effective July 2, 2014; emergency amendment at 39 Ill. Reg. 10453, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 10824, effective July 27, 2015; amended at 39 Ill. Reg. 16394, effective December 14, 2015; amended at 41 Ill. Reg. 1041, effective January 19, 2017.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.160 Payment Methodology for County-Owned Large Public Hospitals

a) Effective for dates of outpatient services on or after July 1, 2014 and inpatient discharges on ~~or after~~ July 1, 2014 through December 31, 2015:

1a) Inpatient Reimbursement Methodology

In accordance with 89 Ill. Adm. Code 149.50(b)(5), county-owned hospitals, as defined in Section 148.25(a)(1), are excluded from the DRG PPS for reimbursement for inpatient hospital services and are reimbursed on a per diem basis.

A+) Inpatient Per Diem Rate Calculation

County-owned hospital inpatient per diem rates are calculated as follows:

iA) Each county-owned hospital's inpatient base year costs, including operating capital and direct medical education costs, shall be calculated using inpatient base period claims data and Medicare cost report data with reporting periods matching the inpatient base period.

iiB) The inpatient base year costs shall be inflated from the midpoint of the inpatient base period claims data to the midpoint of the time period for which rates are being set (rate period) based on an inflation methodology determined by the Department and approved by Centers for Medicare and Medicaid Services (CMMS).

iiiE) Calculate the sum of:

- ~~i)~~The total hospital inflated base year costs, excluding non-Medicare crossover claims, in the inpatient base period claims data; and
- ~~ii)~~Total uncovered Medicare crossover claim cost in the inpatient base period claims data.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ivD) The inpatient per diem rate shall be the quotient of:
- i) Combined inflated base year cost and uncovered Medicare crossover claims cost, per subsection (a)(1)(C); and
 - ii) Total hospital base year covered days, excluding non-Medicare crossover claims, in the inpatient base period claims data.
- vE) The inpatient per diem rates shall be reduced if resulting payments exceed available Department funding or the CMMS Upper Payment Limit.
- B2) Rate Updates
County-owned hospital per diem rates shall be updated on an annual basis using more recent inpatient base period claims data, Medicare cost report data and cost inflation data.
- C3) New hospitals, for which inpatient base period claims data or Medicare cost reports are not on file, will be reimbursed the per diem rate calculated in subsection (a)(1)(A).
- D4) Review Procedure
The review procedure shall be in accordance with Section 148.310.
- 2b) Outpatient Reimbursement Methodology
Large public hospitals, as defined in Section 148.25(a), are included in the EAPG PPS for reimbursement for outpatient hospital services as described in Section 148.140, and are to receive provider-specific EAPG standardized amounts.
- A1) Outpatient EAPG Standardized Amount Calculation
County-owned hospital outpatient EAPG standardized amounts are calculated as follows:
- iA) Each county-owned hospital's outpatient base year costs, including operating, capital and direct medical education

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

costs, shall be calculated using outpatient base period claims data and Medicare cost report data with reporting periods matching the outpatient base period.

iiB) The outpatient base year costs shall be inflated from the midpoint of the outpatient base period claims data to the midpoint of the rate period based on an inflation methodology determined by the Department and approved by CMMS.

iiiC) EAPG standardized amounts shall be determined for each county-owned hospital such that simulated EAPG payments are equal to outpatient base period costs inflated to the rate period, based on outpatient based period paid claims data.

ivD) EAPG standardized amounts shall be reduced if resulting payments exceed available HFS funding or the CMMS Upper Payment Limit.

B2) Rate Updates and Adjustments

iA) County-owned hospital EAPG standardized amounts shall be updated on an annual basis using more recent outpatient base period claims data, Medicare cost report data, and costs inflation data.

iiB) Restructuring Adjustments
Adjustments to outpatient base year costs, as described in subsection (a)(2)(A)(b)(1), will be made to reflect restructuring since filing the base year costs reports. The restructuring must have been mandated to meet State, federal or local health and safety standards. The allowable Medicare/Medicaid costs (see 42 CFR 405, Subpart D, (1982)) must be incurred as a result of mandated restructuring and identified from the most recent audited cost reports available before or during the rate year. The restructuring cost must be significant, i.e., on a per unit basis; they must constitute one percent or more of the total

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

allowable Medicare/Medicaid unit costs for the same time period. The Department will use the most recent available cost reports to determine restructuring costs.

C3) New hospitals, for which outpatient base period claims data or Medicare cost reports are not on file, will be reimbursed the EAPG standardized amount calculated in subsection (a)(2)(A)(b)(4).

D4) Review Procedure
The review procedure shall be in accordance with Section 148.320.

3e) Definitions

"Inpatient base period paid claims data" means Medicaid fee-for-service inpatient paid claims data from the State fiscal year ending 36 months prior to the beginning of the rate period.

"Outpatient base period paid claims data" means Medicaid fee-for-service outpatient paid claims data from the State fiscal year ending 36 months prior to the beginning of the rate period, excluding crossover claims.

"Rate period" means the State fiscal year for which the county-owned hospital inpatient and outpatient rates are effective.

b) Effective for inpatient acute care discharges on or after January 1, 2016, county-owned hospitals, as defined in Section 148.25(a)(1), shall be reimbursed at allowable cost on a DRG basis. The DRG base payment shall be the product, rounded to the nearest hundredth, of:

- 1) The DRG weighting factor of the DRG and SOI (severity of illness), to which the inpatient stay was assigned by the grouper.
- 2) The DRG base rate determined such that simulated base period as defined in subsection (a)(3) DRG payments are equal to adjusted base period costs, as determined in subsection (a)(1)(A)(ii).

(Source: Amended at 41 Ill. Reg. 1041, effective January 19, 2017)

Section 148.170 Payment Methodology for University-Owned Large Public Hospitals

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- a) Effective for dates of outpatient services on or after July 1, 2014 and inpatient discharges on ~~or after~~ July 1, 2014 through December 31, 2015:
- 1a) Inpatient Reimbursement Methodology
In accordance with 89 Ill. Adm. Code 149.50(b)(5), a large public hospital, as defined in Section 148.25(a)(2), is excluded from the DRG PPS for reimbursement for inpatient hospital services and shall be reimbursed on a per diem basis.
- A+) Inpatient Per Diem Rate Calculation
University-owned hospital inpatient per diem rates are calculated as follows:
- iA) Each University-owned hospital's inpatient base year costs, including operating, capital and direct medical education costs, shall be calculated using inpatient base period claims data and Medicare cost report data with reporting periods matching the inpatient base period.
- iiB) The inpatient base year costs shall be inflated from the midpoint of the inpatient base period claims data to the midpoint of the time period, for which rates are being set (rate period) based on an inflation methodology determined by the Department and approved by the Center for Medicare and Medicaid Services (CMMS).
- iiiC) Calculate the sum of:
- ⌋The total hospital inflated base year costs, excluding non-Medicare crossover claims, in the inpatient base period claims data; and
 - ⌋Total uncovered Medicare crossover claim cost in the inpatient base period claims data.
- ivD) The inpatient per diem rate shall be the quotient of:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- ~~i~~) Combined inflated base year cost and uncovered Medicare crossover claims cost, per subsection (a)(1)(~~A~~)(iii); and
 - ~~ii~~) Total hospital base year covered days, excluding non-Medicare crossover claims, in the inpatient base period claims data.
- ~~vE~~) The inpatient per diem rates shall be reduced if resulting payments exceed available Department funding or the CMMS Upper Payment Limit.
- ~~B2~~) Rate Updates and Adjustments
University-owned hospital per diem rates shall be updated on an annual basis using more recent inpatient base period claims data, Medicare cost report data and cost inflation data.
- ~~C3~~) New hospitals, for which inpatient base period claims data or Medicare cost reports are not on file, will be reimbursed the per diem rate calculated in subsection (a)(1)(~~A~~).
- ~~D4~~) Review Procedure
The review procedure shall be in accordance with Section 148.310.
- ~~E5~~) Applicable Adjustment for DSH Hospitals
The criteria and methodology for making applicable adjustments to DSH hospitals shall be in accordance with Section 148.120.
- ~~2b~~) Outpatient Reimbursement Methodology
Large public hospitals, as defined in Section 148.25(a)(~~2~~), are included in the EAPG PPS for reimbursement for outpatient hospital services as described in Section 148.140 and are to receive a provider-specific EAPG standardized amount.
- ~~A+~~) Outpatient EAPG Standardized Amount Calculation
University-owned hospital outpatient EAPG standardized amount is calculated as follows:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- iA) Each University-owned hospital's outpatient base year costs, including operating, capital and direct medical education costs, shall be calculated using outpatient base period claims data and Medicare cost report data with reporting periods matching the outpatient base period.
- iiB) The outpatient base year costs shall be inflated from the midpoint of the outpatient base period claims data to the midpoint of the rate period based on an inflation methodology determined by the Department and approved by CMMS.
- iiiC) EAPG standardized amounts shall be determined for each State-owned hospital such that simulated EAPG payments are equal to outpatient base period costs inflated to the rate period, based on outpatient based period paid claims data.
- ivD) EAPG standardized amounts shall be reduced if resulting payments exceed available Department funding or the Centers for Medicare and Medicaid Services Upper Payment Limit.
- B2) Rate Updates and Adjustments
State-owned hospital EAPG standardized amounts shall be updated on an annual basis using more recent outpatient base period claims data, Medicare cost report data and cost inflation data.
- C3) Review Procedure
The review procedure shall be in accordance with Section 148.310.
- 3e) Definitions

"Inpatient base period paid claims data" means Medicaid fee-for-service inpatient paid claims data from the State fiscal year ending 36 months prior to the beginning of the rate period.

"Outpatient base period paid claims data" means Medicaid fee-for-service outpatient paid claims data from the State fiscal year ending 36 months prior to the beginning of the rate period, excluding crossover claims.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"Rate period" means the State fiscal year for which the University-owned hospital inpatient and outpatient rates are effective.

- b) Effective for inpatient acute care discharges on or after January 1, 2016, University-owned hospitals, as defined in Section 148.25(a)(2), shall be reimbursed at allowable cost on a DRG basis. The DRG base payment shall be the product, rounded to the nearest hundredth, of:
- 1) The DRG weighting factor of the DRG and SOI, to which the inpatient stay was assigned by the grouper.
 - 2) The DRG base rate determined such that simulated base period as defined in subsection (a)(3) DRG payments are equal to adjusted base period costs, as determined in subsection (a)(1)(A)(ii).

(Source: Amended at 41 Ill. Reg. 1041, effective January 19, 2017)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
- 2) Code Citation: 89 Ill. Adm. Code 149
- 3) Section Number: 149.50 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: January 19, 2017
- 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 materials 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*: 40 Ill. Reg. 13522; September 30, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 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: This amendment implements revisions to the inpatient and outpatient payment methodologies for large public hospitals.
- 16) Information and questions regarding this adopted rule shall be directed to:

Mollie Zito

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 149

DIAGNOSIS RELATED GROUPING (DRG) PROSPECTIVE PAYMENT SYSTEM (PPS)

Section

- 149.5 Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (Repealed)
- 149.10 Applicability of Other Provisions
- 149.25 General Provisions
- 149.50 Hospital Inpatient Services Subject to and Excluded from the DRG Prospective Payment System
- 149.75 Conditions for Payment Under the DRG Prospective Payment System
- 149.100 Methodology for Determining DRG PPS Payment Rates
- 149.105 Payment For Outlier Cases
- 149.125 Special Treatment of Certain Facilities (Repealed)
- 149.140 Methodology for Determining Primary Care Access Health Care Education Payments (Repealed)
- 149.150 Payments to Hospitals Under the DRG Prospective Payment System (Repealed)
- 149.175 Payments to Contracting Hospitals (Repealed)
- 149.200 Admitting and Clinical Privileges (Repealed)
- 149.205 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Repealed)
- 149.225 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)
- 149.250 Contract Monitoring (Repealed)
- 149.275 Transfer of Recipients (Repealed)
- 149.300 Validity of Contracts (Repealed)
- 149.305 Termination of ICARE Contracts (Repealed)
- 149.325 Hospital Services Procurement Advisory Board (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and VII and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.940 through 140.972 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 12095, effective July 15, 1988; amended at 13 Ill. Reg. 554, effective January 1, 1989; amended at 13 Ill. Reg. 15070, effective September 15, 1989; amended at 15 Ill.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Reg. 1826, effective January 28, 1991; emergency amendment at 15 Ill. Reg. 16308, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6195, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11937, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14733, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19868, effective December 7, 1992; amended at 17 Ill. Reg. 3217, effective March 1, 1993; emergency amendment at 17 Ill. Reg. 17275, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3378, effective February 25, 1994; amended at 19 Ill. Reg. 10674, effective July 1, 1995; amended at 21 Ill. Reg. 2238, effective February 3, 1997; emergency amendment at 22 Ill. Reg. 13064, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19866, effective October 30, 1998; amended at 25 Ill. Reg. 8775, effective July 1, 2001; amended at 26 Ill. Reg. 13676, effective September 3, 2002; emergency amendment at 27 Ill. Reg. 11080, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18872, effective November 26, 2003; amended at 28 Ill. Reg. 2836, effective February 1, 2004; amended at 38 Ill. Reg. 15477, effective July 2, 2014; amended at 41 Ill. Reg. 1059, effective January 19, 2017.

Section 149.50 Hospital Inpatient Services Subject to and Excluded from the DRG Prospective Payment System

Effective for dates of discharge on or after July 1, 2014:

- a) Inpatient Services Subject to Submission for DRG Grouping. All hospital inpatient services provided to enrollees of the Medical Assistance programs, without regard to balance due or expected reimbursement methodology to be applied by the Department, must be documented on a claim and submitted to the Department. The Department shall process and group all hospital inpatient claims through the DRG grouper.
- b) Excluded from DRG PPS reimbursements are:
 - 1) Psychiatric services provided by:
 - A) A psychiatric hospital, as described in 89 Ill. Adm. Code 148.25(d)(1).
 - B) A distinct part psychiatric unit, as described in 89 Ill. Adm. Code 148.25(c)(1).
 - 2) Physical rehabilitation services provided by:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- A) A rehabilitation hospital, as described in 89 Ill. Adm. Code 148.25(d)(2).
- B) A distinct part rehabilitation unit, as described in 89 Ill. Adm. Code 148.25(c)(2).
- 3) Services provided by a long term acute care hospital, as described in 89 Ill. Adm. Code 148.25(d)(4), that are not psychiatric services or services described in subsections (b)(6) through (b)(7).
- 4) Inpatient services, reimbursed pursuant to 89 Ill. Adm. Code 148.330.
- 5) Services provided by a large public hospital, as described in 89 Ill. Adm. Code 148.25(a)(3).
- 6) Services provided by a large public hospital, as described in 89 Ill. Adm. Code 148.25(a)(1) and (2), through December 31, 2015.
- 7~~6~~) Hospital residing long term care services, as described in 89 Ill. Adm. Code 148.50(c).
- 8~~7~~) Sub-acute alcoholism and substance abuse treatment services, as defined in 77 Ill. Adm. Code 2090.40.
- 9~~8~~) Inpatient services provided by Children's Specialty Hospitals as described in 89 Ill. Adm. Code 148.116.
- 10~~9~~) Non-transplant inpatient services provided by non-cost reporting hospitals, which will be reimbursed at a rate equal to the higher of \$672.24 per day or the provider's per diem rate in effect on June 30, 2014.~~Inpatient services provided by non-cost reporting hospitals, which will be reimbursed at a rate of \$672.24 per day.~~

(Source: Amended at 41 Ill. Reg. 1059, effective January 19, 2017)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Hospital Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 152
- 3) Section Number: 152.150 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: January 19, 2017
- 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 materials 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*: 40 Ill. Reg. 6966; May 5, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this rulemaking replace 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, through technical changes, further clarifies the methodology used to track increases in inpatient case mix under the APR-DRG system that are due to documentation and coding improvements.
- 16) Information and questions regarding this adopted rule shall be directed to:

Mollie Zito
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152

HOSPITAL REIMBURSEMENT CHANGES

Section

152.100	Hospital Rate Reductions
152.150	Hospital Payment Documentation and Coding Improvement Adjustment
152.200	Non-DRG Reimbursement Methodologies (Repealed)
152.250	Appeals (Repealed)
152.300	Adjustment for Potentially Preventable Readmissions
152.350	Inpatient and Outpatient Rate Adjustments

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Sections 12-13 and 14-8 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and Sections 12-13 and 14-8].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19997, effective November 23, 2005; emergency amendment at 30 Ill. Reg. 11847, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18703, effective November 27, 2006; emergency amendment at 32 Ill. Reg. 529, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8730, effective May 29, 2008; amended at 35 Ill. Reg. 10114, effective June 15, 2011; emergency amendment at 36 Ill. Reg. 10410, effective July 1, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 282, effective January 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10517, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 13589, effective August 1, 2013,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

for a maximum of 150 days; emergency amendment at 37 Ill. Reg. 16003, effective September 27, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 882, effective December 23, 2013; amended at 38 Ill. Reg. 15527, effective July 2, 2014; amended at 41 Ill. Reg. 1064, effective January 19, 2017.

Section 152.150 Hospital Payment Documentation and Coding Improvement Adjustment

Effective for dates of service on or after July 1, 2014:

- a) Inpatient Hospital Payment Documentation and Coding Improvement (DCI) Adjustment
 - 1) The Department shall monitor changes in inpatient hospital statewide average case mix for services provided in the first two years following implementation of the APR-DRG payment methodology, and retrospectively adjust DRG base rates to offset the impact of paid case mix differential attributable to DCI.
 - 2) Measuring case mix differential attributable to DCI:
 - A) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 30 of the Medicare-Severity DRG (MS-DRG) grouper and relative weights for:
 - i) Claims with dates of service in State fiscal year 2011 of like populations when compared to fiscal years 2015 and 2016.
 - ii) Claims with dates of service in State fiscal years 2015 and 2016 of like populations when compared to fiscal year 2011, consistent with subsection (a)(3).
 - B) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 30 of the APR-DRG weighting factors for the same periods specified in subsection (a)(1)(A).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- C) The case mix differential that is attributable to DCI is equal to the difference between the change in the aggregate APR-DRG case mix and the change in the aggregate MS-DRG case mix for the claims described in subsection (a)(1)(A).
 - D) Claims for services provided in State fiscal years 2015 and 2016 that were not paid by the Department using the APR-DRG payment methodology shall be excluded when measuring the case mix differential.
- 3) Timing:
- A) Calculate case mix differential attributable to DCI for claims with Dates of Service (DOS) in SFY 2015 (first year of implementation) as of:
 - i) July 1, 2015, using all claims adjudicated as of that date with DOS in SFY 2015.
 - ii) January 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - iii) April 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - B) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2016 (second year of implementation) as of:
 - i) July 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2016.
 - ii) January 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
 - iii) April 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
- 4) Adjusting for case mix changes attributable to DCI:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- A) For any measurement period described in subsection (a)(3), if the case mix differential attributable to DCI is greater than two percentage points, the Department will adjust the DRG base rates by the measured case mix differential less two percentage points.
 - B) For any measurement period described in subsection (a)(3), if the case mix differential attributable to DCI is less than minus two percentage points, the Department will adjust the DRG base rates by the measured case mix differential plus two percentage points.
 - C) The Department will retroactively adjust the payments for all claims adjudicated as of the measurement period for the changes in the DRG base rates.
- b) Outpatient Hospital Payment Documentation and Coding Improvement Adjustment
- 1) The Department shall monitor changes in outpatient hospital case mix for services provided in the first two years following implementation of the Enhanced Ambulatory Procedure Grouping (EAPG) payment methodology, and retrospectively adjust EAPG conversion factors to offset the impact of the case mix differential attributable to DCI.
 - 2) Measuring case mix differential attributable to DCI:
 - A) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Ambulatory Procedures List (APL) relative values for the claims data periods listed in this subsection (b)(2)(A). Relative values will be determined for each APL using SFY 2011 outpatient claims data [priced using APL payment amounts in effect on December 31, 2010](#), by dividing the APL's average payment per service unit by the statewide APL payment for service unit.
 - i) Claims with DOS in SFY 2011.
 - ii) Claims with DOS in SFY 2015 and 2016, consistent with subsection (b)(3).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- B) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 3.7 of the EAPG grouper and the EAPG weighting factors for the same periods.
 - C) The case mix differential that is attributable to DCI is equal to the difference between the change in the aggregate EAPG case mix and the change in the aggregate APL case mix, for the claims described in subsections (b)(2)(A)(i) and (ii).
 - D) Claims for services provided in SFY 2015 and 2016 that were not paid by the Department using the EAPG payment methodology shall be excluded when measuring the case mix differential.
- 3) Timing:
- A) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2015 (first year of implementation) as of:
 - i) July 1, 2015, using all claims adjudicated as of that date with DOS in SFY 2015.
 - ii) January 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - iii) April 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - B) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2016 (second year of implementation) as of:
 - i) July 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2016.
 - ii) January 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
 - iii) April 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 4) Adjusting for case mix changes attributable to DCI:
 - A) For any measurement period described in subsection (b)(3), if the case mix differential attributable to DCI is greater than two percentage points, the Department will adjust the EAPG conversion factor by the measured case mix differential less two percentage points.
 - B) For any measurement period described in subsection (b)(3), if the case mix differential attributable to DCI is less than minus two percentage points, the Department will adjust the EAPG conversion factor by the measured case mix differential plus two percentage points.
 - C) The Department will retroactively adjust the payments for all claims adjudicated as of the measurement period for the changes in the EAPG conversion factors.
 - D) The EAPG conversion factor, after adjustments pursuant to subsections (b)(4)(A) and (B), shall be in effect until the next measurement period.
- c) Public Act 98-651, effective June 16, 2014, authorizes the Department, after consulting with the hospital community, to replace this Section within 12 months after its effective date. If the Department does not file rules to replace this Section within 12 months after the effective date of PA 98-651, this Section as amended effective July 1, 2014 shall remain in effect until modified by rule by the Department. *Nothing in PA 98-651 shall be construed to mandate that the Department file a replacement rule* [305 ILCS 5/14-12(c)].

(Source: Amended at 41 Ill. Reg. 1064, effective January 19, 2017)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Access to Public Records of the Illinois Housing Development Authority
- 2) Code Citation: 2 Ill. Adm. Code 1976
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1976.10	Repealed
1976.20	Repealed
1976.110	Repealed
1976.120	Repealed
1976.210	Repealed
1976.220	Repealed
1976.310	Repealed
1976.320	Repealed
1976.410	Repealed
1976.420	Repealed
1976.430	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h), implementing Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19], and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Repealer: January 23, 2017
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A statement that 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. A copy of the repealer is on file at the Illinois Housing Development Authority, located at 111 E. Wacker Drive, Suite 1000, Chicago, Illinois 60601, and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 10) Has JCAR issued a Statement of Objection to this repealer? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED REPEALER

- 11) Difference between Proposal and Final Version: As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: This Part is being repealed and replaced by new text to implement the provisions of the Freedom of Information Act [5 ILCS 140/1] by establishing the procedures to be followed by the public when requesting public records of the Illinois Housing Development Authority and the procedures to be followed by the Illinois Housing Development Authority in responding to requests for public records.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Robin Jones
Associate Corporate & Compliance Counsel
Illinois Housing Development Authority
111 E. Wacker Drive, Suite 1000
Chicago IL 60601

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Access to Records of the Illinois Housing Development Authority
- 2) Code Citation: 2 Ill. Adm. Code 1976
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1976.100	New Section
1976.105	New Section
1976.200	New Section
1976.205	New Section
1976.210	New Section
1976.300	New Section
1976.305	New Section
1976.310	New Section
1976.315	New Section
1976.400	New Section
1976.405	New Section
1976.410	New Section
1976.415	New Section
1976.420	New Section
1976.425	New Section
1976.430	New Section
1976.435	New Section
1976.500	New Section
1976.505	New Section
1976.510	New Section
1976.Appendix A	New Section
- 4) Statutory Authority: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h), implementing Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19], and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Rules: January 23, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- 8) A statement that 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. A copy of the adopted rule is on file at the Illinois Housing Development Authority, located at 111 E. Wacker Drive, Suite 1000, Chicago, Illinois 60601, and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 10) Has JCAR issued a Statement of Objection to these rules: No
- 11) Difference between Proposal and Final Version: As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? As this is an internal rulemaking, per the IAPA, First Notice publication is not required.
- 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 Rule: These rules are is being adopted to implement the provisions of the Freedom of Information Act [5 ILCS 140/1] by establishing the procedures to be followed by the public when requesting public records of the Illinois Housing Development Authority and the procedures to be followed by the Illinois Housing Development Authority in responding to requests for public records.
- 16) Information and questions regarding these adopted rules shall be directed to:

Robin Jones
Associate Corporate & Compliance Counsel
Illinois Housing Development Authority
111 E. Wacker Drive, Suite 1000
Chicago IL 60601

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XX: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 1976

ACCESS TO RECORDS OF THE ILLINOIS HOUSING DEVELOPMENT AUTHORITY

SUBPART A: INTRODUCTION

Section	
1976.100	Summary and Purpose
1976.105	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
1976.200	Records that Will Be Disclosed
1976.205	Records that Will Be Withheld from Disclosure
1976.210	Statutory Exemptions

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY

Section	
1976.300	Submittal of Requests for Records
1976.305	Information To Be Provided in Requests for Records
1976.310	Requests for Records for Commercial Purposes
1976.315	Records Maintained Online

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section	
1976.400	Timeline for Agency Response
1976.405	Requests for Records that the Agency Considers Unduly Burdensome
1976.410	Recurrent Requesters
1976.415	Requests for Records that Require Electronic Retrieval
1976.420	Denials of Requests for Records
1976.425	Requests for Review of Denials – Public Access Counselor
1976.430	Circuit Court Review

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

1976.435 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

1976.500 Inspection and Copying of Records
1976.505 Fees for Records
1976.510 Reduction and Waiver of Fees

1976.APPENDIX A Fee Schedule for Duplication and Certification of Records

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)], implementing Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 5 Ill. Reg. 14583, effective prior to October 24, 1980 as corrected at 6 Ill. Reg. 620; codified at 7 Ill. Reg. 2433; amended at 8 Ill. Reg. 2996, effective February 28, 1984; amended at 9 Ill. Reg. 8631, effective May 29, 1985; Emergency amendment at 9 Ill. Reg. 10086, effective June 13, 1985, for a maximum of 150 days; amended at 9 Ill., Reg. 11296, effective July 5, 1985; amended at 9 Ill. Reg. 14675, effective September 13, 1985; amended at 9 Ill. Reg. 16848, effective October 21, 1985; amended at 11 Ill. Reg. 2791, effective January 27, 1987; former Part repealed at 41 Ill. Reg. 1072 and new Part adopted at 41 Ill. Reg. 1074, effective January 23, 2017.

SUBPART A: INTRODUCTION

Section 1976.100 Summary and Purpose

- a) This Part states the policy of Illinois Housing Development Authority (Agency) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Agency's possession:
 - A) Records that shall be disclosed; and

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- B) Records that shall be withheld from disclosure;
- 2) Contains the procedures by which requesters may obtain records in the Agency's possession; and
- 3) Contains the procedures for claiming and determining that records submitted to the Agency are exempt from disclosure.

Section 1976.105 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means Illinois Housing Development Act [20 ILCS 3805].

"Agency" means the Illinois Housing Development Authority as established by the Act.

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Agency. (Section 2(d) of FOIA)

"Director" means the Director of the Agency.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business,

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Agency. (Section 2(c) of FOIA)

"Recurrent requester" means a person that, in the 12 months immediately preceding the request, has submitted to the same public body a minimum of 50 requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7 day period. For the purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods, in this definition when the principal purpose of the requests is to access and disseminate information concerning news and current or passing events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, "request" means a written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(g) of FOIA)

"Requester" is any person who has submitted to the Agency a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

SUBPART B: CLASSIFICATION OF RECORDS

Section 1976.200 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 1976.205 or 1976.210. Records covered under this Section shall include, but are not limited to:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Agency are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*
- b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure. (Section 2.10 of FOIA)*
- c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*
 - 1) *Court records that are public;*
 - 2) *Records that are otherwise available under State or local law; and*
 - 3) *Records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi) of FOIA. (Section 2.15(b) of FOIA)*
- d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 1976.205 or 1976.210 may be redacted. (Section 2.20 of FOIA)*

Section 1976.205 Records that Will Be Withheld from Disclosure

- a) For exemptions from FOIA that are stated in FOIA, see Section 7(1) of the Act.
- b) *A record that is not in the possession of the Agency but is in the possession of a party with whom the Agency has contracted to perform a governmental function on behalf of the Agency, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Agency for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 1976.210 Statutory Exemptions

For exemptions from FOIA that are stated in other statutes, see Section 7.5 of the Act.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE AGENCY**Section 1976.300 Submittal of Requests for Records**

- a) Any request for public records should be submitted in writing to the FOI Officer at the Agency.
- b) The Agency has one FOI Officer, located in the Chicago office.
- c) Contact information for each FOI Officer can be found online at www.Illinois.gov/Pages/FOIAContacts.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Illinois Housing Development Authority
111 E. Wacker Dr., Suite 1000
Chicago IL 60601
Attn: FOI Officer

- e) E-mailed requests should be sent via the IHDA website (<https://www.ihda.org/foia/>), contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 312/832-2169, Attn: FOI Officer.

Section 1976.305 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 1976.405 of this Part.);

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 1976.310 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Agency. (Section 3.1(c) of FOIA)*
- b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 1976.205 or 1976.210;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

request, and giving priority to records requested for non-commercial purposes.
(Section 3.1(b) of FOIA)

Section 1976.315 Records Maintained Online

- a) *Notwithstanding any provision of FOIA to the contrary, a public body is not required to copy a public record that is published on the public body's website. The public body shall notify the requester that the public record is available online and direct the requester to the website where the record can be reasonably accessed.*
- b) *If the person requesting the public record is unable to reasonably access the record online after being directed to the website pursuant to subsection (a), the requester may resubmit his or her request for the record stating his or her inability to reasonably access the record online, and the public body shall make the requested record available for inspection or copying as provided in Section 3 of FOIA. (Section 8.5 of FOIA)*

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

Section 1976.400 Timeline for Agency Response

- a) *Except as stated in subsection (b) or (c), the Agency will respond to any written request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for those copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 1976.405. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.*
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
 - 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*
 - 6) *The request for records cannot be complied with by the Agency within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Agency; or*
 - 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
 - d) *When additional time is required for any of the reasons set forth in subsection (b), the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

fails to respond to the request, it will not treat the request as unduly burdensome under Section 1976.405. (Section 3(f) of FOIA)

Section 1976.405 Requests for Records that the Agency Considers Unduly Burdensome

- a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*
- b) *If the Agency determines that a request is unduly burdensome, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. The response shall be treated as a denial of the request for information. (Section 3(g) of FOIA)*
- c) *Repeated requests from the same person for records that are unchanged or identical to records previously provided or properly denied under this Part shall be deemed unduly burdensome. (Section 3(g) of FOIA)*

Section 1976.410 Recurrent Requesters

- a) *Notwithstanding any provision of this Part to the contrary, the Agency will respond to a request from a recurrent requester, as defined in Section 1976.105, within 21 business days after receipt. The response shall:*
 - 1) *provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*
 - 2) *deny the request pursuant to one or more of the exemptions set out in this Part;*
 - 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- 4) *provide the records requested.*
- b) *Within 5 business days after receiving a request from a recurrent requester, the Agency will notify the requester that the Agency is treating the request as a recurrent request, of the reasons why the Agency is treating the request as a recurrent request, and that the Agency will send an initial response within 21 business days after receipt in accordance with subsection (a). The Agency will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*
- c) *Unless the records are exempt from disclosure, the Agency will comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2 of FOIA)*

Section 1976.415 Requests for Records that Require Electronic Retrieval

- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

Section 1976.420 Denials of Requests for Records

- a) The Agency will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 1976.405, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 1976.205 or 1976.210 of this Part.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

of any exemption claimed; and the names and titles or positions of each person responsible for the denial (Section 9(a) of FOIA);

- 2) *Each notice of denial shall also inform the person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor (Section 9(a) of FOIA); and*
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority (Section 9(b) of FOIA).*
- c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.
 - d) If the Agency has given written notice pursuant to Section 1976.400(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
 - e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in Section 1976.400. (Section 9(c) of FOIA)*

Section 1976.425 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review shall be in writing, be signed by the requester, and include a copy of the request for access to records and any response from the Agency. (Section 9.5(a) of FOIA)*
- b) *A person whose request to inspect or copy a record is made for a commercial purpose may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a record was treated by the Agency as a request for a commercial purpose may file a request for review with the Public*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

Access Counselor for the limited purpose of reviewing whether the Agency properly determined that the request was made for a commercial purpose. (Section 9.5(b) of FOIA)

- c) *Within 7 business days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. (Section 9.5(c) of FOIA)*
- d) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- e) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the Agency. (Section 9.5(d) of FOIA)*
- f) *In addition to the request for review, and the answer and response to the request, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- g) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under Section 1976.435. (Section 9.5(f) of FOIA)*
- h) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- i) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency will either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 1976.435. If the opinion concludes that no violation of FOIA has occurred, the*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

requester may initiate administrative review under Section 1976.435. (Section 9.5(f) of FOIA)

- j) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- k) *If the requester files suit under Section 1976.430 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor. (Section 9.5(g) of FOIA)*
- l) *The Attorney General may also issue advisory opinions to the Agency regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Director of the Agency or the Agency's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Agency in order to assist in the review. If the Agency relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Agency is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)*

Section 1976.430 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 1976.435 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Agency shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

Section 1976.500 Inspection and Copying of Records

- a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 111 E. Wacker Drive, Chicago, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.
- b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.
- d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 1976.505 Fees for Records

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- a) In accordance with Section 1976.510, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*
- c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 1976.400, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 1976.500, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.
- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois".*
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
 - 1) The requester, rather than the Agency, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Agency personnel may provide records to the contractor;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- 5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.
- f) *The Agency may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The Agency may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Agency. If the Agency imposes a fee pursuant to this subsection (f), it must provide the requester with an accounting of all fees, costs, and personnel hours in connection with the request for public records. The provisions of this subsection (f) apply only to commercial requests. (Section 6(f) of FOIA)*

Section 1976.510 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*
 - 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

- b) *In setting the amount of the waiver or reduction, the Agency will take into consideration the amount of materials requested and the cost of copying them.*
(Section 6(c) of FOIA)
- c) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.
- d) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format.*
(Section 6(a) of FOIA)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED RULES

Section 1976.APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Definitions and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.7150 Adopted Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 9.1(e), and 27.
- 5) Effective Date of Rule: January 23, 2017
- 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 amendment, a copy of the Board's opinion and order adopted January 19, 2017 in docket R17-2, 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*: 40 Ill. Reg. 15294; November 14, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not applicable. Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] 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 the Proposal and the Final Version: A table that appears in a document entitled "Identical-in –Substance Rulemaking Addendum (Final)" that the Board added to docket R17-2 summarizes the differences between the amendment adopted in the January 19, 2017 in docket R17-2 and those proposed by the Board in an opinion and order dated October 27, 2016, in docket R17-2. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendment.

The differences are limited to minor corrections and stylistic changes. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

deviation 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 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] 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 Amendment appeared in the November 14, 2016 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R17-2, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in docket R17-2 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table indicates JCAR 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 following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of January 19, 2017, adopting an amendment in docket R17-2, which opinion and order is available from the address below.

The R17-2 proceeding relates to the listings of compounds exempted from the State definition of "volatile organic material" (VOM) or "volatile organic compound" (VOC) in 35 Ill. Adm. Code 211.7150 of the Illinois air pollution control rules. This amendment would update the definition of to correspond with an amendment to the corresponding definition of VOC at 40 C.F.R. 51.100(s) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2016 through June 30, 2016:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

February 25, 2016
(81 Fed. Reg. 9339)

USEPA revised the existing exclusion of tertiary-butyl acetate (t-Bac) to totally exclude t-Bac from the federal definition of VOC.

The Board deviated from the literal text of the USEPA amendment by parenthetically adding the systematic name and CAS number for t-Bac and placing the compound in alphabetic order. The Board further added systematic names and CAS numbers for other excluded compounds in the list.

Tables appear in a document entitled "Identical-in –Substance Rulemaking Addendum (Final)" that the Board added to docket R17-2 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's October 27, 2016 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying this amendment, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in –Substance Rulemaking Addendum (Final) in docket R17-2.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] 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 this adopted rule shall be directed to: Please reference consolidated docket R17-2 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Request copies of the Board's opinion and order of January 19, 2017 at 312-814-3620.
Alternatively, you may 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 B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
211.101	Incorporated and Referenced Materials
211.102	Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	
211.121	Other Definitions
211.122	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.200	Acrylonitrile Butadiene Styrene (ABS) Welding
211.210	Actual Heat Input
211.230	Adhesive
211.233	Adhesion Primer
211.235	Adhesive Primer
211.240	Adhesion Promoter
211.250	Aeration
211.260	Aerosol Adhesive and Adhesive Primer
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.479	Allowance
211.481	Ammunition Sealant
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.492	Antifoulant Coating
211.493	Antifouling Sealer/Tie Coat
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.540	Architectural Structure
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.665	Auxiliary Boiler
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.715	Bedliner
211.730	Binders
211.735	Black Coating
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.825	Camouflage Coating
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.880	Cap Sealant
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.953	Carbon Adsorber
211.954	Cavity Wax
211.955	Cement
211.960	Cement Kiln
211.965	Ceramic Tile Installation Adhesive
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.995	Circulating Fluidized Bed Combustor
211.1000	Class II Finish
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1128	Closed Molding
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.1315	Combustion Tuning
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable PM-10
211.1435	Container Glass
211.1455	Contact Adhesive
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device
211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1560	Cove Base
211.1565	Cove Base Installation Adhesive
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1655	Cyanoacrylate Adhesive
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1700	Deadener
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1745	Digital Printing
211.1750	Dip Coating
211.1770	Distillate Fuel Oil

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1872	Ejection Cartridge Sealant
211.1875	Elastomeric Materials
211.1876	Electric Dissipating Coating
211.1877	Electric-Insulating Varnish
211.1878	Electrical Apparatus Component
211.1880	Electrical Switchgear Compartment Coating
211.1882	Electrodeposition Primer (EDP)
211.1883	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2040	Etching Filler
211.2050	Ethanol Blend Gasoline
211.2055	Ethylene Propylenediene Monomer (DPDM) Roof Membrane
211.2070	Excess Air
211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2200	Extreme High-Gloss Coating
211.2210	Extreme Performance Coating

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2320	Finish Primer Surfacer
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2355	Flare
211.2357	Flat Glass
211.2358	Flat Wood Paneling
211.2359	Flat Wood Paneling Coating Line
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2368	Flexible Packaging
211.2369	Flexible Vinyl
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2415	Fog Coat
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2525	Gasket/Gasket Sealing Material
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2615	General Work Surface
211.2620	Generator
211.2622	Glass Bonding Primer
211.2625	Glass Melting Furnace

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2800	Hardwood Plywood
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2825	Heat-Resistant Coating
211.2830	Heatset
211.2840	Heatset Web Letterpress Printing Line
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2955	High Bake Coating
211.2956	High Build Primer Surfacer
211.2958	High Gloss Coating
211.2960	High-Performance Architectural Coating
211.2965	High Precision Optic
211.2970	High Temperature Aluminum Coating
211.2980	High Temperature Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3095	Indoor Floor Covering Installation Adhesive
211.3100	Industrial Boiler
211.3110	Ink
211.3120	In-Line Repair

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3215	Janitorial Cleaning
211.3230	Lacquers
211.3240	Laminate
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3305	Letterpress Printing Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO _x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3505	Lubricating Wax/Compound
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3555	Maintenance Cleaning
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3665	Mask Coating
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3705	Medical Device
211.3707	Medical Device and Pharmaceutical Manufacturing
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3760	Metallic Coating
211.3770	Metallic Shoe-Type Seal
211.3775	Metal to Urethane/Rubber Molding or Casting Adhesive
211.3780	Mid-Kiln Firing
211.3785	Military Specification Coating
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3820	Miscellaneous Industrial Adhesive Application Operation
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3925	Mold Seal Coating
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3961	Motor Vehicle Adhesive
211.3965	Motor Vehicle Refinishing
211.3966	Motor Vehicle Weatherstrip Adhesive
211.3967	Mouth Waterproofing Sealant
211.3968	Multi-Colored Coating
211.3969	Multi-Component Coating
211.3970	Multiple Package Coating
211.3975	Multipurpose Construction Adhesive
211.3980	Nameplate Capacity

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.3985	Natural Finish Hardwood Plywood Panel
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4052	Non-Convertible Coating
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO _x Trading Program
211.4070	Offset
211.4080	One-Component Coating
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4220	Optical Coating
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4280	Other Glass
211.4285	Outdoor Floor Covering Installation Adhesive
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4455	Pan-Backing Coating
211.4460	Panel
211.4470	Paper Coating

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4540	Perimeter Bonded Sheet Flooring
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4735	Plastic
211.4740	Plastic Part
211.4750	Plasticizers
211.4760	Plastic Solvent Welding Adhesive
211.4765	Plastic Solvent Welding Adhesive Primer
211.4768	Pleasure Craft
211.4769	Pleasure Craft Surface Coating
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4895	Polyvinyl Chloride Plastic (PVC Plastic)
211.4900	Porous Material
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5012	Prefabricated Architectural Coating
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Coating
211.5062	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5075	Primer Sealant
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5140	Printed Interior Panel
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5195	Process Heater
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5335	Radiation Effect Coating
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5400	Red Coating
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.5520	Reinforced Plastic Composite
211.5530	Repair
211.5535	Repair Cleaning
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5585	Research and Development Operation
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5800	Rubber
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5860	Scientific Instrument
211.5870	Screening
211.5875	Screen Printing
211.5880	Screen Printing on Paper
211.5885	Screen Reclamation
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5985	Sheet Rubber Lining Installation
211.5987	Shock-Free Coating
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.6012	Silicone-Release Coating
211.6015	Single-Ply Roof Membrane
211.6017	Single-Ply Roof Membrane Adhesive Primer
211.6020	Single-Ply Roof Membrane Installation and Repair Adhesive
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6063	Solar-Absorbent Coating
211.6065	Solids Turnover Ratio (R_T)
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6405	Sterilization Indicating Ink
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6425	Stripping
211.6427	Structural Glazing
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.6460	Subfloor
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6535	Surface Preparation
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6585	Thin Metal Laminating Adhesive
211.6587	Thin Particleboard
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6635	Tileboard
211.6640	Tire Repair
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6740	Translucent Coating
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6780	Trunk Interior Coating
211.6790	Turnaround
211.6810	Two-Piece Can
211.6825	Underbody Coating
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6885	Vacuum Metalizing Coating
211.6890	Vacuum Producing System

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7220	Waterproof Resorcinol Glue
211.7230	Weak Nitric Acid Manufacturing Process
211.7240	Weatherstrip Adhesive
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391, effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12876, effective June 9, 2014; amended in R15-5 at 39 Ill. Reg. 5410, effective March 24, 2015; amended in R17-2 at 41 Ill. Reg. 1096, effective January 23, 2017.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART B: DEFINITIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

- a) This definition of VOM includes any organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity. USEPA has excluded the listed negligibly-reactive compounds from the definition of VOM for purposes of VOM limitations or VOM content requirements. However, USEPA has required that certain of these compounds be considered VOM for purposes of recordkeeping, emissions reporting, and inventory requirements, as described in subsection (e) of this Section.

~~Acetone (2-propanone or dimethylketone)~~

~~2-Amino-2-methylpropan-1-ol (CAS No. 124-68-5) 2-Amino-2-methyl-1-propanol~~

~~Bis(difluoromethoxy)(difluoro)methane ($\text{CHF}_2\text{OCF}_2\text{OCHF}_2$ or HFE-236cal2, CAS No. 78522-47-1)~~

~~1,2-Bis(difluoromethoxy)-1,1,2,2-tetrafluoroethane~~

~~($\text{CHF}_2\text{OCF}_2\text{CF}_2\text{OCHF}_2$ or HFE-338pcc13, CAS No. 188690-78-0)~~

~~tertiary-Butyl acetate (1,1-dimethylethyl acetic acid ester, CAS No. 540-88-5)~~

~~1-Chloro-1,1-difluoroethane (HCFC-142b, CAS No. 75-68-3)~~

~~Chlorodifluoromethane (CFC-22, CAS No. 75-45-6)~~

~~1-Chloro-1-fluoroethane (HCFC-151a, CAS No. 1615-75-4)~~

~~Chlorofluoromethane (HCFC-31, CAS No. 593-70-4)~~

~~Chloropentafluoroethane (CFC-115, CAS No. 76-15-3)~~

~~2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124, CAS No. 2837-89-0)~~

~~1-Chloro-4-(trifluoromethyl)-benzene (parachlorobenzotrifluoride (PCBTF), CAS No. 98-56-6)~~

~~(1E)-1-Chloro-3,3,3-trifluoroprop-1-ene (trans-1-chloro-3,3,3-trifluoroprop-1-ene, CAS No. 29118-24-9)~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- ~~1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethylpentane~~
~~1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethylpentane~~ (HFE-7300, [CAS No. 132182-92-4](#)~~14787~~, or $C_2F_5CF(OCH_3)CF(CF_3)_2$)
- 1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee, [CAS No. 138495-42-8](#))
- Dichlorodifluoromethane (CFC-12, [CAS No. 75-71-8](#))
- 1,1-Dichloro-1-fluoroethane (HCFC-141b, [CAS No. 1717-00-6](#))
- [Dichloromethane \(methylene chloride, CAS No. 75-09-2\)](#)
- 3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca, [CAS No. 422-56-0](#))
- 1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb, [CAS No. 507-55-1](#))
- 1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114, [CAS No. 76-14-2](#))
- [1,1-Dichloro-2,2,2-trifluoroethane \(HCFC-123, CAS No. 306-83-2\)](#)
- 1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a, [CAS No. 354-23-4](#))
- 1,1-Difluoroethane (HFC-152a, [CAS No. 75-37-6](#))
- Difluoromethane (HFC-32, [CAS No. 75-10-5](#))
- (Difluoromethoxy)(difluoro)methane (~~CHF_2OCHF_2~~ or HFE-134, [CAS No. 1691-17-4](#))
- 1-(Difluoromethoxy)-2-[(difluoromethoxy)(difluoro)methoxy]-1,1,2,2-tetrafluoroethane (~~$CHF_2OCF_2OCF_2CF_2OCHF_2$~~ or HFE-43-10pccc124, [CAS No. 188690-77-9](#))
- 2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ([CAS No. 163702-08-7](#) ~~$(CF_3)_2CFCF_2OCH_3$~~)
- Dimethyl carbonate ([CAS No. 616-38-6](#))
- Ethane ([CAS No. 74-84-0](#))
- 2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ([CAS No. 163702-06-5](#) ~~$(CF_3)_2CFCF_2OC_2H_5$~~)
- 3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane (HFE-7500, [CAS No. 297730-93-9](#))
- 1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (~~$C_4F_9OC_2H_5$~~ or HFE-7200, [CAS No. 163702-05-4](#))
- Ethylfluoride (HFC-161, [CAS No. 353-36-6](#))
- 1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane (~~$C_3F_7OCH_3$~~ or HFE-7000, [CAS No. 375-03-1](#))
- 1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea, [CAS No. 431-89-0](#))
- 1,1,1,2,3,3-Hexafluoropropane (HFC-236ea, [CAS No. 431-63-0](#))
- 1,1,1,3,3,3-Hexafluoropropane (HFC-236fa, [CAS No. 690-39-1](#))

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Methane ([CAS No. 74-82-8](#))

Methyl acetate ([methyl ethanoate, CAS No. 79-20-9](#))

~~Methylene chloride (dichloromethane)~~

~~4-Methyl-1,3-dioxolan-2-one (propylene carbonate, CAS No. 108-32-7)~~

Methyl formate ([methyl methanoate, CAS No. 107-31-3](#)CHOOCH3)

1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane (~~$C_4F_9OCH_3$~~ or HFE-7100,
[CAS No. 163702-07-6](#))

~~Parachlorobenzotrifluoride (PCBTF)~~

1,1,1,3,3-Pentafluorobutane (HFC-365mfc, [CAS No. 406-58-6](#))

Pentafluoroethane (HFC-125, [CAS No. 354-33-6](#))

1,1,2,2,3-Pentafluoropropane (HFC-245ca, [CAS No. 679-86-7](#))

1,1,2,3,3-Pentafluoropropane (HFC-245ea, [CAS No. 24270-66-4](#))

1,1,1,2,3-Pentafluoropropane (HFC-245eb, [CAS No. 431-31-2](#))

1,1,1,3,3-Pentafluoropropane (HFC-245fa, [CAS No. 460-73-1](#))

~~Perchloroethylene (tetrachloroethylene)~~

Perfluorocarbon compounds that fall into the following classes:

Cyclic, branched, or linear, completely fluorinated alkanes

Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

~~Propan-2-one (acetone or dimethylketone, CAS No. 67-64-1)~~

~~Propylene carbonate (4-methyl-1,3-dioxolan-2-one)~~

Siloxanes: cyclic, branched, or linear completely-methylated

~~Tetrachloroethene (perchloroethylene, CAS No. 127-18-4)~~

1,1,2,2-Tetrafluoroethane (HFC-134, [CAS No. 359-35-3](#))

1,1,1,2-Tetrafluoroethane (HFC-134a, [CAS No. 811-97-2](#))

~~(1E)-1,3,3,3-Tetrafluoropropene (trans-1,3,3,3-tetrafluoropropene, trans-
1,3,3,3-Tetrafluoropropene (HFO-1234ze, CAS No. 29118-24-9)~~

2,3,3,3-Tetrafluoroprop-1-ene (HFO-1234yf, [CAS No. 754-12-1](#))

1,1,1-Trichloroethane (methyl chloroform, [CAS No. 71-55-6](#))

Trichlorofluoromethane (CFC-11, [CAS No. 75-69-4](#))

1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113, [CAS No. 76-13-1](#))

~~1,1,1-Trifluoro-2,2-dichloroethane (HCFC-123)~~

1,1,1-Trifluoroethane (HFC-143a, [CAS No. 420-46-2](#))

Trifluoromethane (HFC-23, [CAS No. 75-46-7](#))

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR 51, subpart I or appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) ~~of this Section.~~
- e) ~~The following compound is VOM for the purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOM, and it must be uniquely identified in emission reports, but it is not VOM for the purposes of VOM emissions limitations or VOM content requirements: t butyl acetate.~~

(Source: Amended at 41 Ill. Reg. 1096, effective January 23, 2017)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Air Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 243
- 3) Section Number: 243.108 Adopted Action:
Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27.
- 5) Effective Date of Rule: January 23, 2017
- 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 amendments, a copy of the Board's opinion and order adopted January 19, 2017 in docket R17-1, 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*: 40 Ill. Reg. 15319; November 14, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not applicable. Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] 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 the Proposal and the Final Version: There are no differences between the amendment adopted in the January 19, 2017 in docket R17-1 and those proposed by the Board in an opinion and order dated October 27, 2016, in docket R17-1.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] 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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 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 following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of January 19, 2017, adopting amendments in docket R17-1, which opinion and order is available from the address below.

The R17-1 proceeding relates to the Illinois ambient air quality requirements in 35 Ill. Adm. Code 243 of the Illinois air pollution control rules. This amendment would update the Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2016 through June 30, 2016. The Board added a USEPA action of July 3, 2016 for the purpose of administrative economy. The Federal NAAQS are codified at 40 C.F.R. 50. During this period, USEPA amended implementation of its NAAQSs as follows:

January 26, 2016 (81 Fed. Reg. 4294)	USEPA designated one new federal equivalent method (FEM) for particulates (PM10) in ambient air.
April 28, 2016 (81 Fed. Reg. 25397)	USEPA designated one new federal reference method (FRM) for PM10, one new FRM for coarse particulates (PM10-2.5), one new FRM for fine particulates (PM2.5), one new FRM for ozone (O3), and two new FEMs for PM2.5 in ambient air.
June 17, 2016	USEPA issued an updated version of its List of Designated Reference and Equivalent Methods (List of Designated Methods).
July 18, 2016 (81 Fed. Reg. 45284)	USEPA designated one new FRM for PM10, one new FRM for sulfur dioxide (SO2), two new FEMs for PM2.5, one new FEM for PM10, and one new FEM for PM10-2.5 in ambient air.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

The Board deviated from the literal text of the USEPA amendment by using incorporation by reference rather than listing the designated methods. The Board further updated incorporations by reference to Code of Federal Regulations provisions to the latest version available.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R17-1 that list the revisions to the text of the corresponding federal rule and the amendment that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in-Substance Rulemaking Addendum (Final) in docket R17-1.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] 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 rule shall be directed to: Please reference consolidated docket R17-1 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of January 19, 2017 at 312/814-3620. Alternatively, you may 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 B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER I: AIR QUALITY STANDARDS AND EPISODESPART 243
AIR QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section

243.101	Definitions
243.102	Scope
243.103	Applicability
243.104	Nondegradation (Repealed)
243.105	Air Quality Monitoring Data Influenced by Exceptional Events
243.106	Monitoring (Repealed)
243.107	Reference Conditions
243.108	Incorporations by Reference

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section

243.120	PM ₁₀ and PM _{2.5}
243.121	Particulates (Repealed)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	Nitrogen Oxides (Nitrogen Dioxide as Indicator)
243.125	Ozone
243.126	Lead

243.APPENDIX A	Rule into Section Table (Repealed)
243.APPENDIX B	Section into Rule Table (Repealed)
243.APPENDIX C	Past Compliance Dates (Repealed)
243.TABLE A	Schedule for Flagging and Documentation Submission for Data Influenced by Exceptional Events for Use in Initial Area Designations

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10, and 27].

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, filed and effective April 14, 1972; amended in R80-11, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013; amended in R14-6 at 37 Ill. Reg. 19848, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12900, effective June 9, 2014; amended in R15-4 at 39 Ill. Reg. 5434, effective March 24, 2015; amended in R16-2 at 40 Ill. Reg. 4906, effective March 3, 2016; amended in R17-1 at 41 Ill. Reg. 1121, effective January 23, 2017.

SUBPART A: GENERAL PROVISIONS

Section 243.108 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

Government Printing Office (GPO), 732 Capitol Street NW, Washington, DC 20401 (telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov). The following documents incorporated by reference are available from this source:

Appendix A-1 to 40 CFR 50 ~~(2016)~~(2015) (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 ~~(2016)~~(2015) (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 ~~(2016)~~(2015) (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50 (see below).

Appendix C to 40 CFR 50 ~~(2016)~~(2015) (Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

Appendix D to 40 CFR 50 ~~(2016)(2015)~~, as amended at 80 Fed. Reg. 65453 (Oct. 26, 2015) (Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 ~~(2016)(2015)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 ~~(2016)(2015)~~ (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix H to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix I to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix J to 40 CFR 50 ~~(2016)(2015)~~ (Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 ~~(2016)(2015)~~ (Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere), referenced in Section 243.120.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Appendix N to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix O to 40 CFR 50 ~~(2016)(2015)~~ (Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 ~~(2016)(2015)~~ (Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

Appendix S to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

Appendix T to 40 CFR 50 ~~(2016)(2015)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide)), referenced in Section 243.122.

Appendix U to 40 CFR 50 ~~(2016)(2015)~~, ~~as added at 80 Fed. Reg. 65453 (Oct. 26, 2015)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Clean Air Act, 42 USC 7401 et seq. (2013) (for definitions of terms only), referenced in Section 243.102.

BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division (MD-D205-03), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:

"List of Designated Reference and Equivalent Methods" ([June 17, 2016](#))~~(December 18, 2015)~~ (referred to as the "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.

This incorporation by reference ~~includes the following~~~~does not include~~ USEPA methods designations that occurred after [June 17, 2016](#):
~~December 18, 2015.~~

[81 Fed. Reg. 45284 \(July 13, 2016\).](#)

BOARD NOTE: The List of Designated Methods is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website:
<http://www.epa.gov/ttn/amtic/criteria.html>.

(Source: Amended at 41 Ill. Reg. 1121, effective January 23, 2017)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sewer Discharge Criteria
- 2) Code Citation: 35 Ill. Adm. Code 307
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
307.3301	Amendment
307.4503	New Section
307.4508	New Section
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) Effective Date of Rules: January 23, 2017
- 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 amendments, a copy of the Board's opinions and orders adopted January 19, 2017 in dockets R16-9 and R17-8, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notices of Proposal published in the *Illinois Register*: 40 Ill. Reg. 14580; October 28 2016 and 40 Ill. Reg. 15854; December 2, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not applicable. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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 the Proposal and Final Version: Tables that appear in documents entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to dockets R16-9 and R17-8 summarize the differences between the amendment adopted in the January 19, 2017 in docket R16-9 and those proposed by the Board in an opinion and order dated October 6, 2016, in docket R16-9, and adopted January 19, 2017 in docket R17-8 and those proposed by the Board in an opinion and order dated November 17,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

2016, in docket R17-8. Many of the differences are explained in greater detail in the Board's opinions and orders adopting the amendments.

The differences are limited to minor corrections stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation 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 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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 October 28, 2016 and December 2, 2016 issues of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in each of dockets R16-9 and R17-8, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in each of dockets R16-9 and R17-8 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in each of the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table in each indicates JCAR suggestions not incorporated into the text, with a brief explanation.

- 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 following briefly describes the subjects and issues involved in the docket R16-9 and R17-8 rulemakings of which the amendments to Part 307 are a single segment. Also affected by the docket R16-8 rulemaking is 35 Ill. Adm. Code 310, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinions and orders of January 19, 2017, adopting amendments in each of docket R16-9 and R17-8, which opinions and orders are separately available from the address below.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

The R16-9 proceeding updates the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the second half of 2015:

October 22, 2015 (80 Fed. Reg. 64064)

USEPA adopted mandatory digital reporting rules for facilities permitted under the National Pollutant Discharge Elimination System (NPDES) program and indirect dischargers. The Board will incorporate the wastewater pretreatment elements of these reporting requirements into the Illinois pretreatment regulations.

November 3, 2015 (80 Fed. Reg. 67838)

USEPA amended wastewater effluent requirements applicable to sources in the Steam Electric Power Generating Point Source Category. Some of the amendments related to wastewater pretreatment. The Board will incorporate the wastewater pretreatment elements of these revised standards into the Illinois pretreatment regulations.

Specifically, the amendments to Part 307 implement segments of the federal amendments of November 3, 2015. The amendments add the revisions to wastewater pretreatment-related provisions applicable to the Steam Electric Power Generating Point Source Category. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

The R17-8 proceeding updates the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the first half of 2016.

The following briefly summarizes the federal action in the update period:

June 28, 2016 (81 Fed. Reg. 41845)

USEPA adopted pretreatment standards for facilities in the unconventional oil and gas extraction (UOG) source category. The Board must incorporate the UOG source category pretreatment standards into the Illinois pretreatment regulations.

In addition to the federal action that fell within the timeframe of this docket, the Board included three additional related federal actions that occurred later. These additional

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

actions directly impacted one of the actions that USEPA took within the timeframe that is involved.

September 30, 2016 (81 Fed. Reg. 67191)

USEPA extended the implementation date of the UOG pretreatment standards by a direct final rule. The Board adds this later-extended date to this docket for consideration together with the UOG pretreatment standards.

November 28, 2016 (81 Fed. Reg. 85445)

USEPA withdrew the September 30, 2016 direct final rule that extended the implementation date of the UOG pretreatment standards. The Board adds this later-extended date to this docket for consideration together with the UOG pretreatment standards.

December 7, 2016 (81 Fed. Reg. 88126)

USEPA extended the implementation date of the UOG pretreatment standards by a final rule that duplicated the language of the withdrawn September 30, 2016 direct final rule. The Board adds this later-extended date to this docket for consideration together with the UOG pretreatment standards.

Tables appear in a documents entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to each of dockets R16-9 and R17-8 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's October 6, 2016 proposal for public comment in docket R16-9 and November 17, 2016 proposal for public comment in docket R17-8. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in-Substance Rulemaking Addendum (Final) in each of dockets R16-9 and R17-8.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference dockets R16-9 and R17-8 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of each of the Board's opinions and orders of January 19, 2017 in dockets R16-9 and R17-8 at 312-814-3620. Alternatively, you may 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 C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 307
SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

Section	
307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants
307.1006	Electronic Reporting

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties, and Other Dairy Desserts

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 307.1509 Condensed Milk
- 307.1510 Dry Milk
- 307.1511 Condensed Whey
- 307.1512 Dry Whey

SUBPART G: GRAIN MILLS

Section

- 307.1601 Corn Wet Milling
- 307.1602 Corn Dry Milling
- 307.1603 Normal Wheat Flour Milling
- 307.1604 Bulgur Wheat Flour Milling
- 307.1605 Normal Rice Milling
- 307.1606 Parboiled Rice Milling
- 307.1607 Animal Feed
- 307.1608 Hot Cereal
- 307.1609 Ready-to-Eat Cereal
- 307.1610 Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section

- 307.1700 General Provisions
- 307.1701 Apple Juice
- 307.1702 Apple Products
- 307.1703 Citrus Products
- 307.1704 Frozen Potato Products
- 307.1705 Dehydrated Potato Products
- 307.1706 Canned and Preserved Fruits
- 307.1707 Canned and Preserved Vegetables
- 307.1708 Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

Section

- 307.1801 Farm-Raised Catfish
- 307.1815 Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

- 307.1901 Beet Sugar Processing
- 307.1902 Crystalline Cane Sugar Refining
- 307.1903 Liquid Cane Sugar Refining

SUBPART K: TEXTILE MILLS

Section

- 307.2000 General Provisions
- 307.2001 Wool Scouring
- 307.2002 Wool Finishing
- 307.2003 Low Water Use Processing
- 307.2004 Woven Fabric Finishing
- 307.2005 Knit Fabric Finishing
- 307.2006 Carpet Finishing
- 307.2007 Stock and Yarn Finishing
- 307.2008 Nonwoven Manufacturing
- 307.2009 Felted Fabric Processing

SUBPART L: CEMENT MANUFACTURING

Section

- 307.2101 Nonleaching
- 307.2102 Leaching
- 307.2103 Materials Storage Piles Runoff

SUBPART M: CONCENTRATED ANIMAL FEEDING OPERATIONS

Section

- 307.2201 General
- 307.2202 Ducks

SUBPART N: ELECTROPLATING

Section

- 307.2300 General Provisions
- 307.2301 Electroplating of Common Metals
- 307.2302 Electroplating of Precious Metals

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.2304	Anodizing
307.2305	Coatings
307.2306	Chemical Etching and Milling
307.2307	Electroless Plating
307.2308	Printed Circuit Boards

SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Section

307.2400	General Provisions
307.2401	Rayon Fibers
307.2402	Other Fibers
307.2403	Thermoplastic Resins
307.2404	Thermosetting Resins
307.2405	Commodity Organic Chemicals
307.2406	Bulk Organic Chemicals
307.2407	Specialty Organic Chemicals
307.2410	Indirect Discharge Point Sources
307.2490	Non-Complexed Metal-Bearing and Cyanide-Bearing Waste Streams
307.2491	Complexed Metal-Bearing Waste Streams

SUBPART P: INORGANIC CHEMICALS MANUFACTURING

Section

307.2500	General Provisions
307.2501	Aluminum Chloride Production
307.2502	Aluminum Sulfate Production
307.2503	Calcium Carbide Production
307.2504	Calcium Chloride Production
307.2505	Calcium Oxide Production
307.2506	Chlor-Alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)
307.2508	Hydrofluoric Acid Production
307.2509	Hydrogen Peroxide Production
307.2511	Potassium Metal Production
307.2512	Potassium Dichromate Production
307.2513	Potassium Sulfate Production
307.2514	Sodium Bicarbonate Production
307.2516	Sodium Chloride Production
307.2517	Sodium Dichromate and Sodium Sulfate Production

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.2520	Sodium Sulfite Production
307.2522	Titanium Dioxide Production
307.2523	Aluminum Fluoride Production
307.2524	Ammonium Chloride Production
307.2527	Borax Production
307.2528	Boric Acid Production
307.2529	Bromine Production
307.2530	Calcium Carbonate Production
307.2531	Calcium Hydroxide Production
307.2533	Carbon Monoxide and Byproduct Hydrogen Production
307.2534	Chrome Pigments Production
307.2535	Chromic Acid Production
307.2536	Copper Salts Production
307.2538	Ferric Chloride Production
307.2540	Fluorine Production
307.2541	Hydrogen Production
307.2542	Hydrogen Cyanide Production
307.2543	Iodine Production
307.2544	Lead Monoxide Production
307.2545	Lithium Carbonate Production
307.2547	Nickel Salts Production
307.2549	Oxygen and Nitrogen Production
307.2550	Potassium Chloride Production
307.2551	Potassium Iodide Production
307.2553	Silver Nitrate Production
307.2554	Sodium Bisulfite Production
307.2555	Sodium Fluoride Production
307.2560	Stannic Oxide Production
307.2563	Zinc Sulfate Production
307.2564	Cadmium Pigments and Salts Production
307.2565	Cobalt Salts Production
307.2566	Sodium Chlorate Production
307.2567	Zinc Chloride Production

SUBPART R: SOAP AND DETERGENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps
307.2708	Manufacture of Liquid Soaps
307.2709	Oleum Sulfonation and Sulfation
307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

SUBPART U: IRON AND STEEL MANUFACTURING

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking
307.3004	Steelmaking
307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating
307.3013	Other Operations

SUBPART V: NONFERROUS METALS MANUFACTURING

Section

307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals
307.3126	Secondary Tantalum
307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

SUBPART X: STEAM ELECTRIC POWER GENERATING

Section	
307.3301	Steam Electric Power Generating

SUBPART Y: FERROALLOY MANUFACTURING

Section	
307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces
307.3406	Electrolytic Manganese Products
307.3407	Electrolytic Chromium

SUBPART Z: LEATHER TANNING AND FINISHING

Section	
307.3500	General Provisions
307.3501	Hair Pulp, Chrome Tan, Retan-Wet Finish
307.3502	Hair Save, Chrome Tan, Retan-Wet Finish
307.3503	Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish
307.3504	Retan-Wet Finish-Sides

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.3505	No Beamhouse
307.3506	Through-the-Blue
307.3507	Shearling
307.3508	Pigskin
307.3509	Retan-Wet Finish-Splits
307.3590	Potassium Ferricyanide Titration Method

SUBPART BA: GLASS MANUFACTURING

Section

307.3601	Insulation Fiberglass
307.3602	Sheet Glass Manufacturing
307.3603	Rolled Glass Manufacturing
307.3604	Plate Glass Manufacturing
307.3605	Float Glass Manufacturing
307.3606	Automotive Glass Tempering
307.3607	Automotive Glass Laminating
307.3608	Glass Container Manufacturing
307.3610	Glass Tubing (Danner) Manufacturing
307.3611	Television Picture Tube Envelope Manufacturing
307.3612	Incandescent Lamp Envelope Manufacturing
307.3613	Hand Pressed and Blown Glass Manufacturing

SUBPART BB: ASBESTOS MANUFACTURING

Section

307.3701	Asbestos-Cement Pipe
307.3702	Asbestos-Cement Sheet
307.3703	Asbestos Paper (Starch Binder)
307.3704	Asbestos Paper (Elastomeric Binder)
307.3705	Asbestos Millboard
307.3706	Asbestos Roofing
307.3707	Asbestos Floor Tile
307.3708	Coating or Finishing of Asbestos Textiles
307.3709	Solvent Recovery
307.3710	Vapor Absorption
307.3711	Wet Dust Collection

SUBPART BC: RUBBER MANUFACTURING

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3808	Wet Digestion Reclaimed Rubber
307.3809	Pan, Dry Digestion, and Mechanical Reclaimed Rubber
307.3810	Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber
307.3811	Latex Foam

SUBPART BD: TIMBER PRODUCTS PROCESSING

Section

307.3900	General Provisions
307.3901	Barking
307.3902	Veneer
307.3903	Plywood
307.3904	Dry Process Hardboard
307.3905	Wet Process Hardboard
307.3906	Wood Preserving – Water Borne or Nonpressure
307.3907	Wood Preserving – Steam
307.3908	Wood Preserving – Boulton
307.3909	Wet Storage
307.3910	Log Washing
307.3911	Sawmills and Planing Mills
307.3912	Finishing
307.3913	Particleboard Manufacturing
307.3914	Insulation Board
307.3915	Wood Furniture and Fixture Production without Water Wash Spray Booths or without Laundry Facilities
307.3916	Wood Furniture and Fixture Production with Water Wash Spray Booths or with Laundry Facilities

SUBPART BE: PULP, PAPER, AND PAPERBOARD

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section	
307.4000	General Provisions
307.4001	Dissolving Kraft
307.4002	Bleached Papergrade Kraft and Soda
307.4003	Unbleached Kraft
307.4004	Dissolving Sulfite
307.4005	Papergrade Sulfite
307.4006	Semi-Chemical
307.4007	Mechanical Pulp
307.4008	Non-Wood Chemical Pulp
307.4009	Secondary Fiber Deink
307.4010	Secondary Fiber Non-Deink
307.4011	Fine and Lightweight Papers from Purchased Pulp
307.4012	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp
307.4013	Groundwood-Thermo-Mechanical (Repealed)
307.4014	Groundwood-CMN Papers (Repealed)
307.4015	Groundwood-Fine Papers (Repealed)
307.4016	Soda (Repealed)
307.4017	Deink (Repealed)
307.4018	Nonintegrated-Fine Papers (Repealed)
307.4019	Nonintegrated-Tissue Papers (Repealed)
307.4020	Tissue From Wastepaper (Repealed)
307.4021	Papergrade Sulfite (Drum Wash) (Repealed)
307.4022	Unbleached Kraft and Semi-Chemical (Repealed)
307.4023	Wastepaper-Molded Products (Repealed)
307.4024	Nonintegrated-Lightweight Papers (Repealed)
307.4025	Nonintegrated-Filter and Nonwoven Papers (Repealed)
307.4026	Nonintegrated-Paperboard (Repealed)

SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

Section	
307.4101	Builder's Paper and Roofing Felt (Repealed)

SUBPART BG: MEAT PRODUCTS

Section	
307.4201	Simple Slaughterhouse
307.4202	Complex Slaughterhouse

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

307.4203	Low-Processing Packinghouse
307.4204	High-Processing Packinghouse
307.4205	Small Processor
307.4206	Meat Cutter
307.4207	Sausage and Luncheon Meats Processor
307.4208	Ham Processor
307.4209	Canned Meats Processor
307.4210	Renderer

SUBPART BH: METAL FINISHING

Section	
307.4300	General Provisions
307.4301	Metal Finishing

SUBPART BJ: OIL AND GAS EXTRACTION

<u>Section</u>	
<u>307.4503</u>	<u>Onshore Facility Standards</u>
<u>307.4508</u>	<u>Coalbed Methane Subcategory</u>

SUBPART BL: CENTRALIZED WASTE TREATMENT

Section	
307.4700	General Provisions
307.4701	Metals Treatment and Recovery
307.4702	Oils Treatment and Recovery
307.4703	Organics Treatment and Recovery
307.4704	Multiple Waste Streams

SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section	
307.4900	General Provisions
307.4901	Fermentation Products
307.4902	Extraction Products
307.4903	Chemical Synthesis Products
307.4904	Mixing/Compounding and Formulation
307.4905	Research (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

- Section
307.5200 General Provisions
307.5201 Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos
307.5202 Rail Tank Cars Transporting Chemical and Petroleum Cargos
307.5203 Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos
307.5204 Tanks Transporting Food Grade Cargos

SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

- Section
307.5301 Asphalt Emulsion
307.5302 Asphalt Concrete
307.5303 Asphalt Roofing
307.5304 Linoleum and Printed Asphalt Felt

SUBPART BS: WASTE COMBUSTORS

- Section
307.5401 Commercial Hazardous Waste Combustor

SUBPART BT: LANDFILLS

- Section
307.5500 General Provisions
307.5501 RCRA Subtitle C Hazardous Waste Landfill
307.5502 RCRA Subtitle D Non-Hazardous Waste Landfill

SUBPART BU: PAINT FORMULATING

- Section
307.5601 Oil-Base Solvent Wash Paint

SUBPART BV: INK FORMULATING

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section
307.5701 Oil-Base Solvent Wash Ink

SUBPART CD: PESTICIDE CHEMICALS

Section
307.6500 General Provisions
307.6501 Organic Pesticide Chemicals Manufacturing
307.6502 Metallo-Organic Pesticides Chemicals Manufacturing
307.6503 Pesticide Chemicals Formulating and Packaging
307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

SUBPART CG: CARBON BLACK MANUFACTURING

Section
307.6801 Carbon Black Furnace Process
307.6802 Carbon Black Thermal Process
307.6803 Carbon Black Channel Process
307.6804 Carbon Black Lamp Process

SUBPART CJ: BATTERY MANUFACTURING

Section
307.7100 General Provisions
307.7101 Cadmium
307.7102 Calcium
307.7103 Lead
307.7104 Leclanche
307.7105 Lithium
307.7106 Magnesium
307.7107 Zinc

SUBPART CL: PLASTICS MOLDING AND FORMING

Section
307.7300 General Provisions
307.7301 Contact Cooling and Heating Water
307.7302 Cleaning Water
307.7303 Finishing Water

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART CM: METAL MOLDING AND CASTING

Section

307.7400	General Provisions
307.7401	Aluminum Casting
307.7402	Copper Casting
307.7403	Ferrous Casting
307.7404	Zinc Casting

SUBPART CN: COIL COATING

Section

307.7500	General Provisions
307.7501	Steel Basis Material
307.7502	Galvanized Basis Material
307.7503	Aluminum Basis Material
307.7504	Canmaking

SUBPART CO: PORCELAIN ENAMELING

Section

307.7600	General Provisions
307.7601	Steel Basis Material
307.7602	Cast Iron Basis Material
307.7603	Aluminum Basis Material
307.7604	Copper Basis Material

SUBPART CP: ALUMINUM FORMING

Section

307.7700	General Provisions
307.7701	Rolling With Neat Oils
307.7702	Rolling With Emulsions
307.7703	Extrusion
307.7704	Forging
307.7705	Drawing With Neat Oils
307.7706	Drawing With Emulsions or Soaps

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART CQ: COPPER FORMING

Section

307.7800	General Provisions
307.7801	Copper Forming
307.7802	Beryllium Copper Forming

SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

Section

307.7901	Semiconductor
307.7902	Electronic Crystals
307.7903	Cathode Ray Tube
307.7904	Luminescent Materials

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section

307.8100	General Provisions
307.8101	Lead-Tin-Bismuth Forming
307.8102	Magnesium Forming
307.8103	Nickel-Cobalt Forming
307.8104	Precious Metals Forming
307.8105	Refractory Metals Forming
307.8106	Titanium Forming
307.8107	Uranium Forming
307.8108	Zinc Forming
307.8109	Zirconium-Hafnium Forming
307.8110	Metal Powders

307.APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R70-5, March 31, 1971; amended in R70-8/R71-14/R71-20, March 7, 1972; amended in R74-3, October 30, 1975; amended in R74-15/R74-16 at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17 at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21 at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

7818; amended in R82-5/R82-10 at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004; amended in R05-4/R05-15 at 29 Ill. Reg. 6921, effective April 26, 2005; amended in R06-13 at 30 Ill. Reg. 17811, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 18986, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1936, effective February 4, 2013; amended in R16-9 and R17-8 at 41 Ill. Reg. 1129, effective January 23, 2017.

SUBPART X: STEAM ELECTRIC POWER GENERATING

Section 307.3301 Steam Electric Power Generating

- a) Applicability. This Section applies to discharges resulting from operation of a generating unit by an establishment ~~whose engaged primarily in the~~ generation of electricity ~~is the predominant source of revenue or principal reason for operation, distribution and whose generation of electricity sale that~~ results primarily from a process utilizing fossil-type fuel (coal, oil, or gas), fuel derived from fossil fuel (e.g., petroleum coke, synthesis gas), or nuclear fuel in conjunction with a thermal cycle employing the steam water system as the thermodynamic medium. This Section applies to discharges associated with both the combustion turbine and steam turbine portions of a combined cycle generating unit.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 423.11 ~~(2016)(2012)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) The Board incorporates by reference 40 CFR 423.16 ~~(2016)(2012)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) ~~of this Section~~ may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of ~~thosesuch~~ standards.
- d) New sources.
- 1) The Board incorporates by reference 40 CFR 423.17 ~~(2016)(2012)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) ~~of this Section~~ may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of ~~thosesuch~~ standards.
 - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after October 14, 1980.

(Source: Amended at 41 Ill. Reg. 1129, effective January 23, 2017)

SUBPART BJ: OIL AND GAS EXTRACTIONSection 307.4503 Onshore Facility Standards

- a) Applicability. This Section applies to facilities engaged in the production, field exploration, drilling, well completion, and well treatment in the oil and gas extraction industry that are not included within subpart F of 40 CFR 435 (2016) (Stripper Subcategory), incorporated by reference. This incorporation includes no later amendments or editions.

BOARD NOTE: Subsection (a) is derived from 40 CFR 435.30 (2016).

- b) Specialized Definitions. For the purpose of this Section, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 (2016),

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

incorporated by reference, apply to this Section. This incorporation includes no later amendments or editions.

BOARD NOTE: Subsection (b) is derived from 40 CFR 435.31 (2016).

- c) Pretreatment Standards for Existing Sources (PSES).
- 1) PSES for Wastewater from Unconventional Oil and Gas Extraction. Except as provided in 40 CFR 403.7 and 403.13 (2016), incorporated by reference, any existing source subject to this Section must achieve the following PSES. This incorporation by reference includes no later amendments or editions.
- A) There must be no discharge of wastewater pollutants associated with production, field exploration, drilling, well completion, or well treatment for unconventional oil and gas extraction (including, but not limited to, drilling muds, drill cuttings, produced sand, or produced water) into publicly owned treatment works.
- B) For the purposes of this subsection (c) and subsection (d), the following definitions apply:
- i) "Unconventional oil and gas" means crude oil and natural gas produced by a well drilled into a shale or tight formation (including, but not limited to, shale gas, shale oil, tight gas, or tight oil).
- ii) "Drill cuttings" means the particles generated by drilling into subsurface geologic formations and carried out from the wellbore with the drilling fluid.
- iii) "Drilling mud" means the circulating fluid (mud) used in the rotary drilling of wells to clean and condition the hole and to counterbalance formation pressure.
- iv) "Produced sand" means the slurried particles used in hydraulic fracturing, the accumulated formation sands, and scale particles generated during production. Produced sand

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

also includes desander discharge from the produced water waste stream and blowdown of the water phase from the produced water treating system.

- v) "Produced water" means the fluid brought up from the hydrocarbon-bearing strata during the extraction of oil and gas, and includes, where present, formation water, injection water, and any chemicals added downhole or during the oil/water separation process.

- C) Compliance Deadline for Existing Sources. Existing sources lawfully discharging into publicly owned treatment works on or between April 7, 2015 and June 28, 2016 must comply with the PSES before August 29, 2019. All other existing sources must immediately comply.

BOARD NOTE: Corresponding 40 CFR 435.33(a)(3) provides, "All other existing sources shall comply by August 29, 2016."

- 2) PSES for Wastewater from Conventional Oil and Gas Extraction. The pretreatment standards of this subsection (c) do not apply to conventional oil and gas extraction. This subsection (c)(2) corresponds with 40 CFR 435.33(d), which USEPA marked "reserved."

BOARD NOTE: Subsection (c) is derived from 40 CFR 435.33 (2016), as amended at 81 Fed. Reg. 67191 (Sept. 30, 2016).

- d) Pretreatment Standards for New Sources (PSNS).
- 1) Wastewater from Unconventional Oil and Gas Extraction. Except as provided in 40 CFR 403.7 and 403.13 (2016), incorporated by reference, any new source with discharges subject to this Section must achieve the following PSNS. This incorporation by reference includes no later amendments or editions. There must be no discharge of wastewater pollutants associated with production, field exploration, drilling, well completion, or well treatment for unconventional oil and gas extraction (including, but not limited to, drilling muds, drill cuttings, produced sand, or produced water) into publicly owned treatment works.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) PSNS for Wastewater from Conventional Oil and Gas Extraction. The pretreatment standards of this subsection (d) do not apply to conventional oil and gas extraction. This subsection (d)(2) corresponds with 40 CFR 435.34(b), which USEPA marked "reserved."

BOARD NOTE: Subsection (d) is derived from 40 CFR 435.34 (2016).

(Source: Added at 41 Ill. Reg. 1129, effective January 23, 2017)

Section 307.4508 Coalbed Methane Subcategory

The pretreatment standards of Section 307.4503 do not apply to coalbed methane. This Section corresponds with subpart H of 40 CFR 435, which USEPA has marked "reserved".

(Source: Added at 41 Ill. Reg. 1129, effective January 23, 2017)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
310.106	Amendment
310.107	Amendment
310.110	Amendment
310.605	Amendment
310.611	Amendment
310.612	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) Effective Date of Rules: January 23, 2017
- 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 amendments, a copy of the Board's opinion and order adopted January 19, 2017 in docket R16-9, 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*: 40 Ill. Reg. 14602; October 28, 2016
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? Not applicable. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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 the Proposal and the Final Version: A table that appears in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R16-9 summarizes the differences between the amendment adopted in the January 19, 2017 in docket R16-9 and those proposed by the Board in an opinion and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

order dated October 6, 2016, in docket R16-9. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendment.

The differences are limited to minor corrections stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation 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 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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 October 28, 2016 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-9, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-9 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table indicates JCAR 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 310 are a single segment of the docket R16-9 rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R16-9 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 307. A comprehensive description is contained in the Board's opinion and order of October 6, 2016, proposing amendments in docket R16-9, which opinion and order is available from the address below.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Specifically, the amendments to Part 310 implement segments of the federal amendments of October 22, 2015. The amendments add the NPDES Electronic Reporting Rule to the Illinois wastewater pretreatment regulations. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R16-9 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's October 6, 2016 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-9.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] 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 R16-9 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of January 19, 2017 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 310
PRETREATMENT PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section	
310.101	Applicability
310.102	Objectives
310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.106	Electronic Reporting
310.107	Incorporations by Reference
310.110	Definitions
310.111	New Source
310.112	Significant Industrial User

SUBPART B: PRETREATMENT STANDARDS

Section	
310.201	General Prohibitions
310.202	Specific Prohibitions
310.210	Local Limits Developed by POTW
310.211	Status of Local Limits
310.220	Categorical Standards
310.221	Source Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution Prohibited as a Substitute for Treatment
310.233	Combined Waste Stream Formula

SUBPART C: REMOVAL CREDITS

Section	
310.301	Special Definitions

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

310.302	Authority
310.303	Conditions for Authorization to Grant Removal Credits
310.310	Calculation of Revised Discharge Limits
310.311	Demonstration of Consistent Removal
310.312	Provisional Credits
310.320	Compensation for Overflow
310.330	Exception to POTW Pretreatment Program
310.340	Application for Removal Credits Authorization
310.341	Agency Review
310.343	Assistance of POTW
310.350	Continuation of Authorization
310.351	Modification or Withdrawal of Removal Credits

SUBPART D: PRETREATMENT PERMITS

Section	
310.400	Preamble
310.401	Pretreatment Permits
310.402	Time to Apply
310.403	Imminent Endangerment
310.410	Application
310.411	Certification of Capacity
310.412	Signatures
310.413	Site Visit
310.414	Completeness
310.415	Time Limits
310.420	Standard for Issuance
310.421	Final Action
310.430	Conditions
310.431	Duration of Permits
310.432	Schedules of Compliance
310.441	Effect of a Permit
310.442	Modification
310.443	Revocation
310.444	Appeal

SUBPART E: POTW PRETREATMENT PROGRAMS

Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval
310.503	Incorporation of Approved Programs in Permits
310.504	Incorporation of Compliance Schedules in Permits
310.505	Reissuance or Modification of Permits
310.510	Pretreatment Program Requirements
310.511	Receiving Electronic Documents
310.521	Program Approval
310.522	Contents of Program Submission
310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
310.543	Agency Decision
310.544	USEPA Objection
310.545	Notice of Decision
310.546	Public Access to Submission
310.547	Appeal

SUBPART F: REPORTING REQUIREMENTS

Section	
310.601	Definition of Control Authority (Repealed)
310.602	Baseline Report
310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
310.605	Periodic Reports on Compliance
310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
310.611	Requirements for Non-Categorical Standard Users
310.612	Annual POTW Reports
310.613	Notification of Changed Discharge
310.621	Compliance Schedule for POTWs
310.631	Signatory Requirements for Industrial User Reports
310.632	Signatory Requirements for POTW Reports
310.633	Fraud and False Statements
310.634	Recordkeeping Requirements
310.635	Notification of Discharge of Hazardous Waste

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 310.636 Annual Certification by Non-Significant Categorical Users
310.637 Receiving Electronic Documents

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

- Section
310.701 Definition of Requester
310.702 Purpose and Scope
310.703 Criteria
310.704 Fundamentally Different Factors
310.705 Factors that are Not Fundamentally Different
310.706 More Stringent State Law
310.711 Application Deadline
310.712 Contents of FDF Request
310.713 Deficient Requests
310.714 Public Notice
310.721 Agency Review of FDF Requests
310.722 USEPA Review of FDF Requests

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

- Section
310.801 Net/Gross Calculation

SUBPART I: UPSETS

- Section
310.901 Definition
310.902 Effect of an Upset
310.903 Conditions Necessary for an Upset
310.904 Burden of Proof
310.905 Reviewability of Claims of Upset
310.906 User Responsibility in Case of Upset

SUBPART J: BYPASS

- Section
310.910 Definitions
310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 310.912 Notice
310.913 Prohibition of Bypass

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

- Section
310.920 General
310.921 Substantial Modifications Defined
310.922 Approval Procedures for Substantial Modifications
310.923 Approval Procedures for Non-Substantial Modifications
310.924 Incorporation of Modifications into the Permit

SUBPART L: FEDERAL PROJECT XL AGREEMENTS

- Section
310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL

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, and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective January 23, 2017.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: GENERAL PROVISIONS

Section 310.106 Electronic Reporting

The submission of any document pursuant to any provision of this Part ~~as an electronic document in lieu of a paper document~~ is subject to this Section.

a) General Federal Requirements for Electronic Reporting.

1a) Scope and Applicability.

A1) USEPA has established standards for the submission of electronic documents under federally authorized programs. USEPA requires adherence to these standards for all electronic submissions to USEPA and the authorized State, where electronic submissions are authorized by USEPA. The USEPA, the Board, or the Agency, or the Control Authority may allow for the submission of electronic documents in lieu of paper documents. This subsection (a)Section does not require submission of electronic documents in lieu of paper documents. This subsection (a)Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

iA) To USEPA directly under 40 CFR 127Title 40 of the Code of Federal Regulations; or

iiB) To the Board, the Agency, or the Control Authority pursuant to any provision of this Part or 35 Ill. Adm. Code 307702 through 705, 720 through 728, 730, 733, 738, or 739.

B2) Electronic document submission under this subsection (a)Section can occur only as follows:

iA) 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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

- ~~iiB)~~ For submissions of documents to the State or the Control Authority, submissions may occur only into an 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 310.107, and USEPA has not withdrawn its approval of the system in writing under the following circumstances:
- ~~i)~~ As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board, the Agency, or the Control Authority to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;
- ~~ii)~~ As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board, the Agency, or the Control Authority may use that system until USEPA disapproves its use in writing; or
- ~~iii)~~ The Board, the Agency, or the Control Authority may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 C.F.R. 3.1000, so long as the system complies with 40 C.F.R. 3.2000, incorporated by reference in Section 611.102(e), and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~USEPA has not withdrawn its approval of the system in writing.~~

- ~~C3~~) This ~~subsection (a)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)(a)(1) of this Section~~:
- ~~iA~~) Any document submitted via facsimile;
 - ~~iiB~~) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - ~~iiiC~~) Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements between the parties to the transfer to share data.
- ~~D4~~) 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)(1)(B)(ii)(a)(2)(B) of this Section~~, 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)(1)(a) of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2b) Definitions. For the purposes of this ~~subsection (a)~~Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in ~~Section 310.10735 Ill. Adm. Code 611.102(e)~~.
- 3e) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection ~~(a)(1)(C)(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:
- A1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section ~~310.107611.102(e)~~; and
- B2) USEPA has first published a notice in the Federal Register as described in subsection ~~(a)(1)(B)(i)(a)(2)(A) of this Section~~.

BOARD NOTE: Subsection ~~(a)(3)(e) of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

- 4d) Procedures for submission of electronic documents in lieu of paper documents to the Board, the Agency, or the Control Authority.
- A1) The Board, the Agency, or the Control Authority 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 100/5]. The Control Authority must establish such procedures pursuant to applicable State and local laws.
- B2) The Board, the Agency, or the Control Authority may accept electronic documents under this ~~subsection (a)~~Section only as provided in subsection ~~(a)(1)(B)(ii)(a)(2)(B) of this Section~~.

BOARD NOTE: Subsection ~~(a)(4)(d) of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005)~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 5e) Effects of submission of an electronic document in lieu of paper documents.
- A1) If a person who submits a document as an electronic document fails to comply with the requirements of this subsection (a)~~Section~~, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- B2) 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.
- C3) 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.
- D4) Nothing in this subsection (a)~~Section~~ limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (a)(5)(e) of this Section is derived from 40 CFR 3.4 and 3.2000(c) (2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- 6f) 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:
- A1) The Illinois Administrative Procedure Act [5 ILCS 100];
- B2) The Freedom of Information Act (FOIA) [5 ILCS 140];

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- C3) The State Records Act [5 ILCS 160];
 - D4) The Electronic Commerce Security Act [5 ILCS 175];
 - E5) The Environmental Protection Act [415 ILCS 5];
 - F6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
 - G7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- 7g) Nothing in this ~~subsection (a)~~Section or in any provisions adopted pursuant to subsection ~~(a)(4)(A)(d)(1) of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection ~~(a)(7)(g) of this Section~~ is derived from 40 CFR 3.2(c) ~~(2016), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

BOARD NOTE: ~~Subsection (a) is derived~~Derived from 40 CFR 3, ~~as added,~~ and ~~40 CFR 403.8(g) (2016)-(2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).~~

b) NPDES Electronic Reporting.

1) Purpose and Scope.

- A) This subsection (b), in conjunction with the NPDES reporting requirements specified elsewhere in this Part, specifies the requirements for:
 - i) Electronic reporting of information by NPDES permittees;
 - ii) Facilities or entities seeking coverage under NPDES general permits;
 - iii) Facilities or entities submitting waivers from NPDES permit requirements;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- iv) Industrial users located in municipalities without approved local pretreatment programs;
 - v) Approved pretreatment programs; and
 - vi) (The Board omitted a provision derived from 40 CFR 127.1(a)(6), as subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the corresponding federal provisions.)
 - vii) USEPA and the Agency, to the extent the Agency has received authorization from USEPA to implement the NPDES program. This subsection (b), in conjunction with other segments of this Part, also specifies the requirements for electronic reporting of NPDES information to USEPA by the states, tribes, or territories that have received authorization from USEPA to implement the NPDES program.
- B) To the extent the Agency is authorized to implement a segment of the NPDES program, the Agency must ensure that the required minimum set of NPDES data (appendix A to 40 CFR 127, incorporated by reference in Section 310.107) is electronically transferred to USEPA in a timely, accurate, complete, and nationally-consistent manner fully compatible with USEPA's national NPDES data system.
- C) To the extent that the Secretary of Defense has exempted Department of Defense "critical infrastructure security information" from disclosure under the federal Freedom of Information Act pursuant to 10 USC 130e, the exempted NPDES program data will be withheld from the public (see also section 7(1)(k) of the FOIA). In the instance that an NPDES program data element for a particular facility is designated as critical infrastructure security information in response to a FOIA request, a separate filtered set of data without the redacted information will be shared with the public; however, all NPDES program data will

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

continue to be provided to USEPA and the Agency under the authorized State NPDES program.

- D) Proper collection, management, and sharing of the data and information listed in appendix A to 40 CFR 127, incorporated by reference in Section 310.107, ensures that there is a timely, complete, accurate, and nationally consistent set of data about the NPDES program.

BOARD NOTE: Subsection (b)(1) is derived from 40 CFR 127.1 (2016).

- 2) Definitions. For the purposes of this subsection (b), the following terms have the following meanings.

"Initial recipient of electronic NPDES information from NPDES-regulated facilities" or "initial recipient" means the entity (USEPA or, after Illinois is authorized by USEPA to implement the NPDES program, the Agency) that is the designated entity for receiving electronic NPDES data.

BOARD NOTE: Derived from 40 CFR 127.2(b) (2016). USEPA is the initial recipient for a specific NPDES data group and NPDES program area until USEPA authorizes the State to act as initial recipient for that NPDES data group and NPDES program area.

"Minimum set of NPDES data" means the data and information listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 127.2(e) (2016). For the purposes of this Part, the only data and information intended are those associated with NPDES data groups 1 (core NPDES data), 2 (general permit reports), 7 (pretreatment program reports), and 8 (significant industrial user reports).

"NPDES data group" means the group of related data elements identified in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. These NPDES data groups have similar regulatory reporting requirements and have similar data sources.

BOARD NOTE: Derived from 40 CFR 127.2(c) (2016).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"NPDES program", for the purposes of this subsection (b), means the federal pretreatment program adopted by the Board pursuant to Section 13.3 of the Act to implement section 307(b) of the Clean Water Act (42 USC 1307(b)). USEPA can implement the NPDES program or authorize the State to implement the NPDES program ("authorized NPDES program"). Identifying the relevant authority must be done for each NPDES subprogram (e.g., NPDES core program, federal facilities, general permits, and pretreatment). BOARD NOTE: Derived from 40 CFR 127.2(d) (2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

"NPDES-regulated entity" means any entity regulated by the NPDES program that has a role in the NPDES program, as defined in this subsection (b)(2). BOARD NOTE: Derived from 40 CFR 127.2(h) (2016). This definition is limited to wastewater pretreatment. The corresponding federal definition includes all other aspects of the NPDES program.

"Program reports" means the information reported by NPDES-regulated entities and listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107 (except NPDES data groups 1 and 2). BOARD NOTE: Derived from 40 CFR 127.2(f) (2016). For the purposes of this subsection (b), the only information intended is that associated with NPDES data groups 7 (pretreatment program reports) and 8 (significant industrial user reports).

BOARD NOTE: Subsection (b)(2) is derived from 40 CFR 127.2 (2016).

- 3) Data to be Reported Electronically.
 - A) An NPDES-regulated entity must electronically submit the minimum set of NPDES data for these NPDES reports, as applicable. The following NPDES reports are the source of the minimum set of NPDES data from NPDES-regulated entities:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) Discharge monitoring reports (as required by USEPA pursuant to 40 CFR 122.41(l)(4)).
 - ii) This subsection (b)(3)(A)(ii) corresponds with 40 CFR 127.11(a)(2), which pertains to sewage sludge/biosolids annual reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - iii) Concentrated animal feeding operation annual program reports (as required by USEPA pursuant to 40 CFR 122.42(e)(4)).
 - iv) This subsection (b)(3)(A)(iv) corresponds with 40 CFR 127.11(a)(4), which pertains to municipal separate storm sewer system program reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - v) Pretreatment program annual reports (see Section 310.612).
 - vi) Sewer overflow and bypass incident event reports (as required by USEPA pursuant to 40 CFR 122.41(l)(6) and (7)).
 - vii) This subsection (b)(3)(A)(vii) corresponds with 40 CFR 127.11(a)(7), which pertains to cooling water intake structure reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
- B) A facility or entity seeking coverage under or termination from an NPDES general permit must electronically submit the minimum set of NPDES data for the following notices, certifications, and waivers (if those reporting requirements are applicable):
- i) Notice of intent (NOI) to discharge by facilities seeking coverage under a general NPDES permit (rather than an

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

individual NPDES permit), as described in 40 CFR 122.28(b)(2); and

ii) Notice of termination (NOT), as described in 40 CFR 122.64.

C) An industrial user located in a municipality without an approved local pretreatment program must electronically submit the minimum set of NPDES data for the following self-monitoring reports (if those reporting requirements are applicable):

i) Periodic reports on continued compliance, as described in Section 310.605; and

ii) Reporting requirements for industrial users not subject to categorical pretreatment standards, as described in Section 310.611.

D) The minimum set of NPDES data for NPDES-regulated facilities is identified in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 127.11 (2016).

4) Signature and Certification Standards for Electronic Reporting. The signatory and certification requirements identified in subsection (a) and Section 310.631 also apply to electronic submissions of NPDES information (see subsection (b)(2)) by NPDES permittees, facilities, and entities subject to this subsection (b).

BOARD NOTE: Subsection (b)(4) is derived from 40 CFR 127.12 (2016).

5) Requirements Regarding Quality Assurance and Quality Control.

A) Responsibility for the quality of the information provided electronically in compliance with this subsection (b) by the NPDES permittees, facilities, and entities subject to this subsection

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(b) rests with the owners and operators of those facilities or entities. NPDES permittees, facilities, and entities subject to this subsection (b) must use quality assurance and quality control procedures to ensure the quality of the NPDES information submitted in compliance with this subsection (b).

- B) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information in compliance with the data quality requirements specified in subsection (b)(6). NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information unless a waiver is granted in compliance with this subsection (b) (see subsections (b)(7) and (b)(7)(G)).

BOARD NOTE: Subsection (b)(5) is derived from 40 CFR 127.13 (2016).

- 6) Requirements Regarding Timeliness, Accuracy, Completeness, and National Consistency. NPDES permittees, facilities, and entities subject to this subsection (b) must comply with all requirements in this subsection (b) and electronically submit the minimum set of NPDES data in the following nationally-consistent manner:

- A) Timely. Electronic submissions of the minimum set of NPDES data to the appropriate initial recipient, as defined in subsection (b)(2), must be timely.
- i) Measurement Data (including information from discharge monitoring reports, self-monitoring data from industrial users located outside of approved local pretreatment programs, and similar self-monitoring data). The electronic submission of these data is due when that monitoring information is required to be reported in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order.
- ii) Program Report Data. The electronic submission of this data is due when that program report data is required to be reported in compliance with statutes, regulations, the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

NPDES permit, another control mechanism, or an enforcement order.

- B) Accurate. Electronic submissions of the minimum set of NPDES data must be identical to the actual measurements taken by the owner or operator, or their duly authorized representative;
- C) Complete. Electronic submission of the minimum set of NPDES data must include all required data (see appendix A to 40 CFR 127, incorporated by reference in Section 310.107) and these electronic submissions must be sent to the NPDES data system of the initial recipient, as defined in subsection (b)(2); and
- D) Consistent. Electronic submissions of the minimum set of NPDES data must be compliant with USEPA data standards as set forth in this subsection (b) and in a form (including measurement units) fully compatible with USEPA's national NPDES data system.

BOARD NOTE: Subsection (b)(6) is derived from 40 CFR 127.14 (2016).

- 7) Waivers from Electronic Reporting.
 - A) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit the minimum set of NPDES data in compliance with this Section and Section 310.631 unless a waiver is granted in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
 - B) USEPA or the Board, by an adjusted standard or variance issued pursuant to Section 28.1 or Sections 35 through 37 of the Act and Subpart D or B of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a temporary waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- i) Each temporary waiver must not extend beyond five years. However, NPDES-regulated entities may re-apply for a temporary waiver. It is the duty of the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) to re-apply for a new temporary waiver. The Board cannot grant a temporary waiver to an NPDES-regulated entity without first receiving a temporary waiver request from the NPDES-regulated entity.
- ii) To apply for a temporary waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for temporary waiver.
- BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.
- iii) The Board will determine whether to grant a temporary waiver to the extent Illinois is authorized to administer the pertinent NPDES program area. The Board will provide notice to the owner, operator, or duly authorized facility representative submitting a temporary waiver request, in compliance with the requirements of subsection (b)(7)(G).
- iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a temporary waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).
- v) An approved temporary waiver is not transferrable.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- C) USEPA or the Board, by an adjusted standard pursuant to section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a permanent waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
- i) A permanent waiver is only available to a facility or entity that is owned or operated by members of a religious community that chooses not to use certain modern technologies (e.g., computers, electricity). The Board cannot grant a permanent waiver to an NPDES-regulated entity without first receiving a permanent waiver request from the NPDES-regulated entity.
- ii) To apply for a permanent waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for permanent waiver.
- iii) An approved permanent waiver is not transferrable.
- iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a permanent waiver must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).
- D) The Agency, by a provisional variance pursuant to Sections 35 through 37 of the Act and Subpart C of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

or entity subject to this subsection (b) an episodic waiver from electronic reporting in compliance with, subsections (b)(7)(G) and (b)(9). The following conditions apply to an episodic waiver:

- i) No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting.
- ii) An episodic waiver is not transferrable.
- iii) An episodic waiver cannot last more than 60 days.

BOARD NOTE: Section 36(c) of the Act provides a maximum duration of 45 days for a provisional variance, allowing a single extension possible up to 45 days. No combination of a provisional variance and an extension can exceed 60 days in total duration under this subsection (b)(7)(D)(iii).

- iv) The Agency will decide if the episodic waiver provision allows facilities and entities to delay their electronic submissions or to send hardcopy (paper) submissions. An episodic waiver is only available to a facility or entity in the circumstances listed in subsection (b)(7)(F).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with codification requirements.

- E) The following information items must be included in any petition for a temporary or permanent waiver issued pursuant to subsection (b)(7)(B) or (b)(7)(C):

- i) The facility name;
- ii) The NPDES permit number (if applicable);
- iii) The facility address;

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- iv) The name, address and contact information for the owner, operator, or duly authorized facility representative;
- v) A brief written statement regarding the basis for claiming such a temporary waiver; and
- vi) Any other information required by the Act or Board regulations (35 Ill. Adm. Code: Subtitle C, Chapter I).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- F) A temporary waiver is limited to the following circumstances:
 - i) A large-scale emergency involving catastrophic circumstances beyond the control of the facility, such as a force of nature (e.g., a hurricane, flood, fire, or earthquake) or other national disaster. The Agency must make the determination of whether an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.
 - ii) A prolonged electronic reporting system outage (i.e., an outage longer than 96 hours). The Agency must make the determination if an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(F)(ii) to comport with codification requirements.

- G) Procedural Requirements for Waivers.
 - i) USEPA requires that the Board grant or deny a request for temporary or permanent waiver from electronic reporting in writing within 120 days after receiving the request.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

BOARD NOTE: Subsection (b)(7)(G)(i) is derived from 40 CFR 127.24(a) and (b) (2016).

- ii) The Agency must provide notice of an episodic waiver individually or through means of mass communication when an episodic waiver is available. The notice must state the facilities and entities that may use the episodic waiver, the likely duration of the episodic waiver, and any other directions regarding how facilities and entities should provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the initial recipient, as defined in subsection (b)(2). No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting. The Agency, when granting the episodic waiver, must determine whether to allow facilities and entities to delay their electronic submissions for a short time (i.e., no more than 40 days) or to have the facilities and entities send hardcopy (paper) submissions.

BOARD NOTE: Subsection (b)(7)(G)(ii) is derived from 40 CFR 127.24(d) (2016).

- iii) The Agency must electronically transfer to USEPA the minimum set of NPDES data (as defined in Section 310.106(b)(2)) that it receives from a permittee, facility, or entity that has received a waiver pursuant to this subsection (b)(7).

BOARD NOTE: Subsection (b)(7)(G)(iii) is derived from 40 CFR 127.24(c) (2016).

BOARD NOTE: Subsections (b)(7)(A) through (b)(7)(F) are derived from 40 CFR 127.15 (2016).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

8) Implementation of Electronic Reporting Requirements for NPDES Permittees, Facilities, and Entities Subject to this Subsection (b).

- A) Scope and Schedule. An NPDES permittee, facility, or entity subject to this subsection (b), with the exception of those covered by waivers under subsection (b)(7), must electronically submit the following NPDES information (reports, notices, waivers, and certifications) after the start dates listed in the following table.

<u>NPDES Information</u>	<u>Start Dates for Electronic Submissions</u>
<u>General Permit Reports Notices of Intent to Discharge, Notices of Termination, and Other Waivers</u>	<u>December 21, 2020</u>
<u>Discharge Monitoring Reports</u>	<u>December 21, 2016</u>
<u>POTW Pretreatment Program Annual Reports (see Section 310.612.)</u>	<u>December 21, 2020</u>
<u>Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs (see Sections 310.605 and 310.611)</u>	<u>December 21, 2020</u>

- B) Electronic Reporting Standards. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) in compliance with this Section and Section 310.631.
- C) Initial Recipient. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) to USEPA Region 5, the Control Authority, the Approval Authority, or the initial recipient (as identified pursuant to 40 CFR 127.27 and defined in subsection

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(b)(2)). USEPA was to identify and publish the initial recipient on a USEPA website and in the Federal Register, by state and by NPDES data group (see subsection (b)(7)).

BOARD NOTE: The procedure by which USEPA determines the initial recipient is 40 CFR 127.27. That procedure provides that USEPA is the initial recipient where the State is not approved by USEPA to act as initial recipient.

- D) Standards for NPDES-Regulated Entities with Electronic Reporting Waivers. An NPDES permittee, facility, or entity subject to this subsection (b) that has received a waiver from electronic reporting must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the Agency or initial recipient (see subsection (b)(7)).

BOARD NOTE: Subsection (b)(8) is derived from 40 CFR 127.16 (2016).

- 9) Inclusion of Electronic Reporting Requirements in NPDES Permits. All permits issued by the Agency must contain permit conditions requiring compliance with the electronic reporting requirements in this Section. An NPDES-regulated facility already having an electronic reporting requirement in its permit that meets the requirements in this Section must continue its electronic reporting to the initial recipient.

BOARD NOTE: Subsection (b)(9) is derived from 40 CFR 127.26(f) (2016).

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

Section 310.107 Incorporations by Reference

- a) The following publications are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA document number EPA-830-B-94-001), available from National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>, referenced in Section 310.320.

BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994).

Standard Industrial Classification Manual (1987) (document no. PB87-100012) (referred to as "1987 SIC Manual"), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search through the U.S. Department of Labor, at http://www.osha.gov/pls/imis/sic_manual.html. In 1997, the federal Office of Management and Budget (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at <http://www.naics.com>. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 307:

40 CFR 2.302 ~~(2016)~~(2014) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 ~~(2016)~~(2014) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 ~~(2016)~~(2014) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

40 CFR 3.10 ~~(2016)(2014)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 ~~(2016)(2014)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 ~~(2016)(2014)~~ (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 ~~(2016)(2014)~~ (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) ~~(2016)(2014)~~ (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

[Appendix A to 40 CFR 127 \(2016\) \(Minimum Set of NPDES Data\)](#), referenced in 35 Ill. Adm. Code 310.106.

[BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program \(NPDES data groups 1, 2, 3, 7, and 8\) are intended.](#)

40 CFR 136 ~~(2016)(2014)~~, ~~as amended at 79 Fed. Reg. 49001 (Aug. 19, 2014)~~ (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 ~~(2016)(2014)~~ (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 ~~(2016)(2014)~~ (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) ~~(2016)(2014)~~ (Reporting Requirements for POTWs and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Industrial Users), referenced in Section 310.602.

40 CFR 403.15 [\(2016\)\(2014\)](#) (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 [\(2016\)\(2014\)](#) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 [\(2016\)\(2014\)](#) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 [\(2016\)\(2014\)](#) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

- c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 [\(2015\)\(2013\)](#)), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 USC 1251 et seq. [\(2014\)\(2013\)](#)), referenced in Section 310.110.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) [\(2014\)\(2013\)](#)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) [\(2014\)\(2013\)](#)), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 USC 1317(b), (c), and (d) [\(2014\)\(2013\)](#)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 [\(2014\)\(2013\)](#)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4) [\(2014\)\(2013\)](#)), referenced in Section 310.633.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) ~~(2014)(2013)~~), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 ~~(2014)(2013)~~), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a) ~~(2014)(2013)~~, referenced in Section 310.510.

- d) This Part incorporates no future editions or amendments.

BOARD NOTE: The Board has located all of the incorporations by reference for the purposes of this Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307 in this Section to aid future review and updates. The Board has located the incorporations by reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the segments appropriate to each individual categorical standard. This aids future review and updates of the categorical standards.

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

Section 310.110 Definitions

The following definitions, derived from the general definitions of 40 CFR 401.11 and the pretreatment-specific definitions of 40 CFR 403.3, apply for the purposes of this Part and 35 Ill. Adm. Code 307:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

BOARD NOTE: The Board has consistently rendered "Director", as defined in corresponding 40 CFR 403.3(g), as "Agency" for all functions within the Agency's statutory authority and USEPA has not clearly reserved the function to itself.

"Approval Authority" means the Agency after USEPA has approved the Illinois wastewater pretreatment program. "Approval Authority" means USEPA prior to USEPA approval of the Illinois wastewater pretreatment program.

BOARD NOTE: Derived from 40 CFR 403.3(c) ~~(2016)(2005)~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Approved POTW pretreatment program" or "program" or "POTW pretreatment program" means a program administered by a POTW that has been approved by [USEPA, pursuant to 40 CFR 403.11, or](#) the Agency in accordance with Sections 310.541 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.3(d) [\(2016\)](#)~~(2005)~~.

"Authorization to discharge" means an authorization issued to an industrial user by a POTW that has an approved pretreatment program. The authorization may consist of a permit, license, ordinance, or other mechanism as specified in the approved pretreatment program.

[BOARD NOTE: The Board added this term to distinguish a "pretreatment permit," which is a control mechanism issued by the Agency.](#)

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 310.201(a) and (c) and 310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD NOTE: Derived from 40 CFR 403.3(e) [\(2016\)](#), ~~as added at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~.

"Blowdown" means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

BOARD NOTE: Derived from 40 CFR 401.11(p) [\(2016\)](#)~~(2005)~~.

"Board" means the Illinois Pollution Control Board.

[BOARD NOTE: The Board has consistently rendered "Director," as defined in corresponding 40 CFR 403.3\(g\), as "Board" for all functions within the Board's statutory authority and USEPA has not clearly reserved the function to itself.](#)

"CWA" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended [\(33 USC 1251 et seq\)](#), ~~incorporated by reference in Section 310.107.~~

BOARD NOTE: Derived from 40 CFR 403.3(b) [\(2016\)](#)~~(2005)~~.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Control Authority " refers to the appropriate of the following:

The POTW, if the POTW's pretreatment program submission has been approved by the Agency, in accordance with the requirements of Section 310.541310.540 through 310.546 or by USEPA in accordance with 40 CFR 403.11; or

The Approval AuthorityAgency, if no pretreatment programthe submission has yetnot been approved.

BOARD NOTE: Derived from 40 CFR 403.3(f) (2016)(2005), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Existing source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which occurred prior to the date that would qualify the building, structure, facility, or installation for definition as a "new source", as defined in Section 310.111.

BOARD NOTE: The Board added this definition of a fundamental term that is used throughout the categorical standards to determine the applicability of those standards.

"Indirect discharge" or "discharge"~~"Discharge"~~ means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA (33 USC1317(b), (c), or (d)), incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(i) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Industrial user" or "user"~~"User"~~ means a source of indirect discharge. ~~As used in this Part, an industrial user includes any person who meets any of the following criteria:~~

~~The person discharges toxic pollutants, as defined by 35 Ill. Adm. Code 307.1005;~~

~~The person is subject to a categorical standard adopted or incorporated by reference in 35 Ill. Adm. Code 307;~~

~~The person discharges more than fifteen percent of the total hydraulic flow~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~received by the POTW treatment plant;~~

~~The person discharges more than fifteen percent of the total biological loading of the POTW treatment plant as measured by the five-day biochemical oxygen demand;~~

~~The person has caused pass through or interference; or~~

~~The person has presented an imminent endangerment to the health or welfare of persons.~~

BOARD NOTE: Derived from 40 CFR 403.3(j) (2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Industrial wastewater" means waste of a liquid nature discharged by an industrial user to a sewer tributary to a POTW the spent or used water from an industry that contains dissolved or suspended matter.

"Interference" means a discharge, alone or in conjunction with a discharge or discharges from other sources, for which both of the following is true:

The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

As a result of the inhibition or disruption, the discharge is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with applicable laws and permits issued under those laws, including 33 USC 405 and 40 CFR 503 (federal standards for sewage sludge use and disposal) and State standards relating to sludge use and disposal (such as 415 ILCS 5/21 and 22.56a and 35 Ill. Adm. Code 309.155, 309.208, and 391), 42 USC 6901 et seq. (the federal Resource Conservation and Recovery Act (hazardous waste and municipal solid waste disposal requirements)) and 35 Ill. Adm. Code: Subtitle G derived from the federal solid waste and hazardous waste management standards, 42 USC 7401 et seq. (the federal Clean Air Act) and 35 Ill. Adm. Code: Subtitle B derived from the federal Clean Air Act standards, 53 USC 2601 et seq. (the federal Toxic Substances Control Act) or any Illinois requirements relating to toxic substances (such as 415 ILCS 5/21 and 35 Ill. Adm. Code 742, 807, and 810), and 33 USC 1401 et seq.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~(the federal Marine Protection, Research, and Sanctuaries Act) any sludge requirements.~~

BOARD NOTE: Derived from 40 CFR 403.3(k) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

~~"Municipal sewage" is sewage treated by a POTW exclusive of its industrial component.~~

~~"Municipal sludge" is sludge produced by a POTW treatment works.~~

~~"Municipality-". See "unit of local government-".~~

"New source" means a new source as defined in Section 310.111.

BOARD NOTE: Derived from 40 CFR ~~401.11(e)401.11(e)~~ and 403.3(m) ~~(2016)(2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

BOARD NOTE: Derived from 40 CFR 401.11(n) ~~(2016)(2005).~~

"Noncontact cooling water pollutants" means pollutants present in noncontact cooling waters.

BOARD NOTE: Derived from 40 CFR 401.11(o) ~~(2016)(2005).~~

"NPDES permit" means a permit issued to a POTW pursuant to Section 402 of the CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

BOARD NOTE: Derived from 40 CFR 403.3(n) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

~~"O and M" means operation and maintenance.~~

"Pass through" means a discharge of pollutants that exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

BOARD NOTE: Derived from 40 CFR 403.3(p) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Person" means an individual, corporation, partnership, association, State, "unit of local government," commission, or any interstate body. This term includes the United States government, the State of Illinois, and their political subdivisions. BOARD NOTE: Derived from 40 CFR 401.11(m) (2016)~~(2005)~~ and 33 USC 1362(5) (2014).

"Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).

"Pollutant" means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into a sewer. BOARD NOTE: Derived from 40 CFR 401.11(f) (2016)~~(2005)~~.

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water. BOARD NOTE: Derived from 40 CFR 401.11(g) (2015)~~(2005)~~.

"POTW treatment plant" means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater. BOARD NOTE: Derived from 40 CFR 403.3(r) (2016)~~(2005)~~, as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by Section 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Section 310.233.

BOARD NOTE: Derived from 40 CFR 403.3(s) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Pretreatment permit" means ~~a permit~~~~an authorization~~ to discharge to a sewer that is issued by the Agency as the Control Authority.

BOARD NOTE: The Board added this term to distinguish an "authorization to discharge," which is a control mechanism issued by a POTW.

"Pretreatment ~~requirement~~~~requirements~~" means any substantive or procedural requirement related to pretreatment imposed on an industrial user by a pretreatment permit or lawful order, other than a pretreatment standard, ~~imposed on an industrial user.~~

BOARD NOTE: Derived from 40 CFR 403.3(t) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to ~~Sections~~~~Section~~ 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits ~~pursuant to Section 310.211~~ that are a part of an approved pretreatment program, as provided in Section 310.211.

BOARD NOTE: Derived from 40 CFR 403.3(l) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

BOARD NOTE: Derived from 40 CFR 401.11(q) ~~(2016)(2005).~~

"Process wastewater pollutants" means pollutants present in process wastewater.

BOARD NOTE: Derived from 40 CFR 401.11(r) ~~(2016)(2005).~~

~~"Project XL" means the federal Project for eXcellence and Leadership or a federally approved facility or community based regulatory reinvention (XL) pilot~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~project, as such are described in the Federal Register notices of May 23, 1995 (60 Fed. Reg. 27282) and November 1, 1995 (60 Fed. Reg. 55569).~~

"Publicly owned treatment works" or "POTW" means a "treatment works" that is owned by the State of Illinois or a "unit of local government." This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "unit of local government" that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

BOARD NOTE: Derived from 40 CFR 403.3(q) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Schedule of compliance" means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2016)(2005)~~ and 33 USC 1362(17).

"Significant industrial user" means significant industrial user as defined in Section 310.112.

BOARD NOTE: Derived from 40 CFR 403.3(v) ~~(2016)(2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Sludge requirements" means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits); ~~the federal Toxic Substances Control Act (15 USC 2601), or the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401), Section 39(b) of the Act (NPDES Permits); [415 ILCS 5/39(b)], and Section 405(b) of the federal Clean Water Act (federally-imposed sludge use and management requirements); and 40 CFR 501 and 503.~~

BOARD NOTE: Derived from 40 CFR 403.3(k)(2) ~~(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005), and 403.7(a) (2016)(2005).~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Submission" means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.

BOARD NOTE: Derived from 40 CFR 403.3(w) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005).~~

"Treatment works" is as defined in 33 USC 1292(2), incorporated by reference in Section 310.107~~(e)~~. It includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal or industrial wastewater to implement 33 USC 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment.

BOARD NOTE: Derived from 40 CFR 403.3(q) ~~(2016)(2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~ and 33 USC 1292(2).

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, ~~having jurisdiction over disposal of sewage~~. Unit of local government includes, but is not limited to, municipalities, and sanitary districts.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2016)(2005)~~ and 33 USC 1362(4).

"USEPA" means the United States Environmental Protection Agency.

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

SUBPART F: REPORTING REQUIREMENTS

Section 310.605 Periodic Reports on Compliance

- a) ~~After~~Any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user as defined in Section 310.110), after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user, as defined in Section 310.110)after commencement of the discharge into the POTW, must submit to the Control Authority a report indicating the nature and concentration of pollutants in the effluent that are limited by the categorical pretreatment standards. The industrial user must submit the report during the

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

months of June and December, unless ~~the Control Authority or the pretreatment standard requires~~required more ~~frequent reporting frequently in the pretreatment standard or by the Control Authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards.~~ In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. ~~If in cases where~~ the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may alter the months during which the reports required by this subsection (a) are to be submitted. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if it determines that the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
- 1) The Control Authority may authorize a waiver only where it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;
 - 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

for the waiver before the waiver can be granted for each subsequent control mechanism;

- 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in Section 310.107~~(b)~~, with the lowest minimum detection level for that pollutant was used in the analysis;
- 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after expiration of the waiver;
- 5) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);

- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user must immediately comply with the monitoring requirements of subsection (a) ~~of this Section~~ or other more frequent

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

monitoring requirements imposed by the Control Authority; and industrial user must notify the Control Authority; and

- 7) This subsection (b) does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- c) Where the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) of this Section must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.
- d) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Section 310.230, the report required by subsection (a) ~~of this Section~~ must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) ~~of this Section~~ must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e) ~~(2016)(2005)~~, as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

Section 310.611 Requirements for Non-Categorical Users

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis performed in the period covered by the report and in accordance with the techniques described in 40 CFR 136, incorporated by reference at Section 310.107. For the purposes of this Section, "significant non-categorical industrial user" means a significant industrial user that is not subject to categorical

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

pretreatment standards. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2020, all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(h) (2016)(2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

Section 310.612 Annual POTW Reports

POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. The report must include, at a minimum, the applicable required data in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. The report required by this Subpart F must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2020, all annual reports submitted in compliance with this Subpart F must be submitted electronically by the POTW pretreatment program to the Approval Authority or initial recipient, as defined in Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.~~following:~~

- a) ~~An updated list of the POTW's industrial users, including their names and addresses or a list of deletions and additions keyed to a previously submitted list. The POTW must provide a brief explanation of each deletion. This list must identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list must indicate which industrial users are subject to more stringent than the categorical pretreatment standards. The POTW must also list the industrial users that are subject only to local requirements. The list must also identify industrial users that are subject to categorical pretreatment standards and which are subject to reduced reporting requirements under Section 310.605(e), and the list must identify which industrial users are non-significant categorical industrial users.~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) ~~A summary of the status of industrial user compliance over the reporting period.~~
- e) ~~A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period.~~
- d) ~~A summary of changes to the POTW's pretreatment program that have not been previously reported to the Agency.~~

BOARD NOTE: Derived from 40 CFR 403.12(i) ~~(2016)(2005)~~, as amended at ~~70 Fed. Reg. 60134 (Oct. 14, 2005)~~.

(Source: Amended at 41 Ill. Reg. 1155, effective January 23, 2017)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Procedural Requirements for Permitted Landfills
- 2) Code Citation: 35 Ill. Adm. Code 813
- 3) Section Number: 813.112 Adopted Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) Effective Date of Rule: January 23, 2017
- 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 amendments, a copy of the Board's opinion and order adopted January 19, 2017 in docket R17-5, 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*: 40 Ill. Reg. 15329; November 14, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Not applicable. Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(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).
- 11) Differences between the Proposal and the Final Version: A table that appears in a document entitled "Identical-in –Substance Rulemaking Addendum (Final)" that the Board added to docket R17-5 summarizes the differences between the amendment adopted in the January 19, 2017 in docket R17-5 and those proposed by the Board in an opinion and order dated October 27, 2016, in docket R17-5. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendment.

The differences are limited to minor corrections and stylistic revisions. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

deviation 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 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(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 JCAR.

Since the Notices of Proposed Amendments appeared in the November 14, 2016 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table indicates JCAR 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 following briefly describes the subjects and issues involved in the docket R17-5 rulemaking of which the amendments to Part PART are a single segment. Also affected is 35 Ill. Adm. Code PART, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of January 19, 2017, adopting amendments in docket R17-5, which opinion and order is available from the address below.

This proceeding updates the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules to correspond with an amendment adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during a single update period: January 1, 2016 through June 30, 2016:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

May 10, 2016
(81 Fed. Reg. 28720)

USEPA revised the maximum term of a research, development, and demonstration (RD&D) permit from 12 years to 21 years.

The Board deviated from the literal text of the USEPA amendment in format. The Board further included two corrections to rules format and updated a Code of Federal Regulations citation to the latest version available. These corrections and update are not directly derived from the instant federal amendments.

Tables appear in a document entitled "Identical-in –Substance Rulemaking Addendum (Final)" that the Board added to docket R17-5 that list the revision to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's October 27, 2016 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in–Substance Rulemaking Addendum (Final) in docket R17-5.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] 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 this adopted rule shall be directed to: Please reference consolidated docket R17-5 and direct inquiries to the following person:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Request copies of the Board's opinion and order of January 19, 2017 at 312-814-3620.
Alternatively, you may 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 i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 813
PROCEDURAL REQUIREMENTS FOR PERMITTED LANDFILLS

SUBPART A: GENERAL PROCEDURES

Section	
813.101	Scope and Applicability
813.102	Delivery of Permit Application
813.103	Agency Decision Deadlines
813.104	Standards for Issuance of a Permit
813.105	Standards for Denial of a Permit
813.106	Permit Appeals
813.107	Permit No Defense
813.108	Term of Permit
813.109	Transfer of Permits
813.110	Adjusted Standards to Engage in Experimental Practices
813.111	Agency Review of Contaminant Transport Models
813.112	Research, Development, and Demonstration Permits for MSWLFs
813.113	Electronic Reporting

SUBPART B: ADDITIONAL PROCEDURES FOR MODIFICATION
AND SIGNIFICANT MODIFICATION OF PERMITS

Section	
813.201	Initiation of a Modification or Significant Modification
813.202	Information Required for a Significant Modification of an Approved Permit
813.203	Specific Information Required for a Significant Modification to Obtain Operating Authorization
813.204	Procedures for a Significant Modification of an Approved Permit

SUBPART C: ADDITIONAL PROCEDURES FOR THE RENEWAL OF PERMITS

Section	
813.301	Time of Filing

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

813.302	Effect of Timely Filing
813.303	Information Required for a Permit Renewal
813.304	Updated Groundwater Impact Assessment
813.305	Procedures for Permit Renewal

SUBPART D: ADDITIONAL PROCEDURES FOR INITIATION AND TERMINATION OF TEMPORARY AND PERMANENT CLOSURE AND POSTCLOSURE CARE

Section	
813.401	Agency Notification Requirements
813.402	Certification of Closure
813.403	Termination of the Permit

SUBPART E: CERTIFICATION AND REPORTS

Section	
813.501	Annual Certification
813.502	Groundwater Reports and Graphical Results of Monitoring Efforts
813.503	Information to be Retained at or near the Waste Disposal Facility
813.504	Annual Report

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15814, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12409, effective July 19, 1993; expedited correction at 18 Ill. Reg. 7501, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12388, effective August 1, 1994; amended in R98-9 at 22 Ill. Reg. 11483, effective June 23, 1998; amended in R05-1 at 29 Ill. Reg. 5066, effective March 22, 2005; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1466, effective December 20, 2006; amended in R17-5 at 41 Ill. Reg. 1201, effective January 23, 2017.

SUBPART A: GENERAL PROCEDURES

Section 813.112 Research, Development, and Demonstration Permits for MSWLFs

- a) Except as provided in subsection (f) ~~of this Section~~, and subject to the limitations of subsections (c) through (e) ~~of this Section~~, the Agency must issue a research, development, and demonstration (RD&D) permit for a new MSWLF unit,

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods that deviate from either or both of the following standards, provided the Agency has determined that the MSWLF unit has a leachate collection system that is designed and constructed to maintain less than a 30-cm depth of leachate on the liner and that the innovative and new methods will not cause contamination of groundwater or surface water:

- 1) The run-on control systems in 35 Ill. Adm. Code 811.103(b)(1) and (b)(2); and
 - 2) The liquids restrictions in 35 Ill. Adm. Code 811.107(m)(1).
- b) The Agency must issue a research, development, and demonstration permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion for which the owner or operator proposes to utilize innovative and new methods that deviate from the final cover standards of 35 Ill. Adm. Code 811.314(b) and (c) provided the Agency has determined that the MSWLF unit owner or operator has demonstrated that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water or cause leachate depth on the liner to exceed 30-cm.
- c) Any RD&D permit issued under this Section must include such terms and conditions as are at least as protective as the MSWLF standards of 35 Ill. Adm. Code 811.103(b)(1) and (b)(2), 811.107(m)(1), and 811.314(b) and (c) from which the deviation is granted to assure protection of human health and the environment. Such a permit must include the following conditions:
- 1) It must provide for the construction and operation of such facilities as are necessary, for not longer than three years, unless the permit is renewed as provided in subsection (e) ~~of this Section~~;
 - 2) It must provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and non-hazardous wastes that the Agency has deemed appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;
 - 3) It must include such requirements as are necessary to protect human health and the environment, including such requirements as are necessary for

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

testing and providing information to the Agency with respect to the operation of the facility;

- 4) It must require the owner or operator of a MSWLF unit permitted under this Section to submit an annual report to the Agency showing whether and to what extent the site is progressing in attaining project goals. The report will also include a summary of all monitoring and testing results, as well as any other operating information specified by the Agency in the permit; and
 - 5) It must require compliance with all standards in 35 Ill. Adm. Code 811, except as permitted under this Section.
- d) The Agency may request in writing that the owner or operator immediately terminate all operations at the facility permitted under this Section or request that the owner or operator undertake other corrective measures at any time the Agency has reason to believe that the overall goals of the project are not being attained, including protection of human health or the environment. The Agency or any person may file an enforcement action pursuant to Section 41 of the Act [415 ILCS 5/41] for any violations of the Act [415 ILCS 5].
- e) No permit issued under this Section may exceed three years in duration, and no single renewal of a permit under this Section may exceed three years in duration.
- 1) The total term for a permit for a project including renewals may not exceed ~~21~~[twelve](#) years; and
 - 2) During permit renewal, the applicant must provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and status with respect to problem resolutions, and any other requirements that the Agency determines are necessary for permit renewal.
- f) Small MSWLF units. An owner or operator of a MSWLF unit that disposes of 20 tons of municipal solid waste per day or less, based on an annual average, is not eligible for an RD&D permit under this Section with regard to the standards of 35 Ill. Adm. Code 811.314(b) and (c), except in accordance with 35 Ill. Adm. Code 811.314(d).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

BOARD NOTE: This Section is derived from 40 CFR 258.4 [\(2016\)](#)~~(2004)~~.

(Source: Amended at 41 Ill. Reg. 1201, effective January 23, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: 310.210 Peremptory Action: Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.210 to reflect: the Memorandum of Agreement (MOA) between the State of Illinois (Department of Central Management Services) and the Illinois Union of Bakery, Confectionary and Tobacco Workers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 10, 2017; the MOA between the State of Illinois (Department of Central Management Services) and the International Union of United Food and Commercial Workers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 8, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the International Brotherhood of Boilermakers - Iron Shipbuilders, Blacksmiths, Forgers, and Helpers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 5, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the Illinois State Bricklayers and Allied Craftworkers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 4, 2017; the MOA between the State of Illinois (Department of Central Management Services) and the Service Employees International Union, Local 1, Fireman and Oilers Division for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 9, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the International Brotherhood of Electrical Workers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 20, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the International Association of Machinist and Aerospace Workers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 1, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the International Union of Operating Engineers for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 3, 2017; the MOA between the State of Illinois (Department of Central Management Services) and the International Union of Painters and Allied Trades for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed December 8, 2016; the MOA between the State of Illinois (Department of Central Management Services) and the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of U.S.A. and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Canada for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 4, 2017; the MOA between the State of Illinois (Department of Central Management Services) and the United Association of Journeymen and Apprentices of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 3, 2017; the MOA between the State of Illinois (Department of Central Management Services) and the Laborer's International Union of North America for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 13, 2017; and the MOA between the State of Illinois (Department of Central Management Services) and the United Brotherhood of Carpenters and Joiners of America on behalf of Chicago Regional Council of Carpenters, Mid-Central Illinois Regional Council and St. Louis-Kansas City Carpenter's Regional Council for the Fiscal Years 2017, 2018 and 2019 merit incentive program signed January 4, 2017. The MOAs provide for the FY2017 Merit Incentive Program in detail. The FY2018 and FY2019 Merit Incentive Programs will be refined by future mutual agreement.

- 5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21].
- 6) Effective Date: January 19, 2017
- 7) A Complete Description of the Subjects and Issues Involved: In Section 310.210, subsection heading (g) is removed and FY2016 Merit Pay becomes second level subsection (1) under subsection (f) Merit Incentive (including Time-Off Awards) and Gain Sharing Programs. Second level subsection (2) FY2017 Merit Incentive Program is added. The second level subsection includes participation, eligibility, evaluations and proration factors for the overall FY2017 Merit Incentive Program. The FY2017 Merit Incentive Program includes merit pay and additional time off that are further explained. The merit pay information includes the overall amount available, one-time and non-pensionable nature of the payment, continued State service requirement, lists provided to the bargaining unit or representative, performance criteria and amounts for certain performance. The additional time off information includes scheduling limits, no liquidation of earned additional time off, performance criteria, amounts for certain performance, approval by specific supervisors and lists provided to the bargaining unit or representative and posted at the workplace. Second level subsection (3) is added for the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

FY2018 and FY2019 Merit Incentive Programs explaining that the further refined programs are expected by future collective bargaining agreement.

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: January 19, 2017
- 10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act?
Yes
- 12) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
310.47	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.210	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.410	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table D	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table E	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table F	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table T	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table W	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table AA	Amendment	40 Ill. Reg. 14827; November 4, 2016
310.Appendix A Table L	Amendment	40 Ill. Reg. 15444; November 18, 2016
310.47	Amendment	41 Ill. Reg. 213; January 13, 2017
310.260	Amendment	41 Ill. Reg. 213; January 13, 2017
310.410	Amendment	41 Ill. Reg. 213; January 13, 2017
310.Appendix A Table I	Amendment	41 Ill. Reg. 213; January 13, 2017

- 13) Statement of Statewide Policy Objective: The amendments to the Pay Plan affects only the employees subject to the Personnel Code and does not set out any guidelines that affect local or other jurisdictions in the State.
- 14) Information and questions regarding this peremptory rule shall be directed to:

Mr. Jason Doggett
Manager

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Compensation Section
Division of Technical Services
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706

217/524-1055
fax: 217/558-4497
CMS.PayPlan@Illinois.gov

The full text of the Peremptory Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hire Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes (Repealed)
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

310.270	Legislated Rate (Repealed)
310.280	Designated Rate
310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses
310.455	Intermittent Merit Increase (Repealed)
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
310.560	Merit Incentive Program
310.570	Gain Sharing Program

SUBPART D: FROZEN NEGOTIATED-RATES-OF-PAY DUE TO
FISCAL YEAR APPROPRIATIONS AND EXPIRED SALARY SCHEDULES IN
COLLECTIVE BARGAINING UNIT AGREEMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section

310.600	Jurisdiction (Repealed)
310.610	Pay Schedules (Repealed)
310.620	In-Hiring Rate (Repealed)
310.630	Definitions (Repealed)
310.640	Increases in Pay (Repealed)
310.650	Other Pay Provisions (Repealed)
310.660	Effective Date (Repealed)
310.670	Negotiated Rate (Repealed)
310.680	Trainee Rate (Repealed)
310.690	Educator Schedule for Frozen RC-063 and Frozen HR-010 (Repealed)
310.APPENDIX A	Negotiated Rates of Pay
310.TABLE A	RC-104 (Conservation Police Supervisors, Illinois Fraternal Order of Police Labor Council)
310.TABLE B	VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' – ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #700)
310.TABLE E	RC-020 (Teamsters Locals #330 and #705)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' –

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educator, Educator Trainees, Juvenile Justice School Counselors and Special Education Resources Coordinators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Blasting Experts, Blasting Specialists and Blasting Supervisors Department of Natural Resources, SEIU Local 73)
310.TABLE AE	RC-090 (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294)
310.APPENDIX B	Frozen Negotiated-Rates-of-Pay (Repealed)
310.TABLE A	Frozen RC-104-Rates-of-Pay (Conservation Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE C	Frozen RC-056-Rates-of-Pay (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE) (Repealed)
310.TABLE H	Frozen RC-006-Rates-of-Pay (Corrections Employees, AFSCME) (Repealed)
310.TABLE I	Frozen RC-009-Rates-of-Pay (Institutional Employees, AFSCME) (Repealed)
310.TABLE J	Frozen RC-014-Rates-of-Pay (Clerical Employees, AFSCME) (Repealed)
310.TABLE K	Frozen RC-023-Rates-of-Pay (Registered Nurses, INA) (Repealed)
310.TABLE M	Frozen RC-110-Rates-of-Pay (Conservation Police Lodge) (Repealed)
310.TABLE N	Frozen RC-010 (Professional Legal Unit, AFSCME) (Repealed)
310.TABLE O	Frozen RC-028-Rates-of-Pay (Paraprofessional Human Services Employees, AFSCME) (Repealed)
310.TABLE P	Frozen RC-029-Rates-of-Pay (Paraprofessional Investigatory and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

	Law Enforcement Employees, IFPE) (Repealed)
310.TABLE R	Frozen RC-042-Rates-of-Pay (Residual Maintenance Workers, AFSCME) (Repealed)
310.TABLE S	Frozen VR-704-Rates-of-Pay (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE T	Frozen HR-010-Rates-of-Pay (Teachers of Deaf, IFT) (Repealed)
310.TABLE V	Frozen CU-500-Rates-of-Pay (Corrections Meet and Confer Employees) (Repealed)
310.TABLE W	Frozen RC-062-Rates-of-Pay (Technical Employees, AFSCME) (Repealed)
310.TABLE X	Frozen RC-063-Rates-of-Pay (Professional Employees, AFSCME) (Repealed)
310.TABLE Y	Frozen RC-063-Rates-of-Pay (Educators and Educator Trainees, AFSCME) (Repealed)
310.TABLE Z	Frozen RC-063-Rates-of-Pay (Physicians, AFSCME) (Repealed)
310.TABLE AB	Frozen RC-150-Rates-of-Pay (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AD	Frozen RC-184-Rates-of-Pay (Public Service Administrators Option 8X Department of Natural Resources, SEIU Local 73) (Repealed)
310.TABLE AE	Frozen RC-090-Rates-of-Pay (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294) (Repealed)
310.APPENDIX C	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.ILLUSTRATION A	Classification Comparison Flow Chart: Both Classes are Whole
310.ILLUSTRATION B	Classification Comparison Flow Chart: One Class is Whole and One is Divided
310.ILLUSTRATION C	Classification Comparison Flow Chart: Both Classes are Divided
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 3230, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; peremptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; peremptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; peremptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; peremptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; peremptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; peremptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; peremptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; peremptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; peremptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; peremptory amendment at 28 Ill. Reg. 15336, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; peremptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; peremptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; peremptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; peremptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; peremptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; peremptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; peremptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; peremptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; peremptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; peremptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; peremptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; peremptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; peremptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; peremptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; peremptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; peremptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; peremptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; peremptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; peremptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; peremptory amendment at 34 Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; peremptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; peremptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; peremptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; peremptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; peremptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; peremptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; peremptory amendment at 34 Ill. Reg. 10536, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

July 9, 2010; preemptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; preemptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; preemptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; preemptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; preemptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092, effective January 1, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; preemptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011; emergency amendment at 35 Ill. Reg. 4412, effective February 23, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 4803, effective March 11, 2011; emergency amendment at 35 Ill. Reg. 5633, effective March 15, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 5677, effective March 18, 2011; amended at 35 Ill. Reg. 8419, effective May 23, 2011; amended at 35 Ill. Reg. 11245, effective June 28, 2011; emergency amendment at 35 Ill. Reg. 11657, effective July 1, 2011, for a maximum of 150 days; emergency expired November 27, 2011; preemptory amendment at 35 Ill. Reg. 12119, effective June 29, 2011; preemptory amendment at 35 Ill. Reg. 13966, effective July 29, 2011; preemptory amendment at 35 Ill. Reg. 15178, effective August 29, 2011; emergency amendment at 35 Ill. Reg. 15605, effective September 16, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 15640, effective September 15, 2011; preemptory amendment at 35 Ill. Reg. 19707, effective November 23, 2011; amended at 35 Ill. Reg. 20144, effective December 6, 2011; amended at 36 Ill. Reg. 153, effective December 22, 2011; preemptory amendment at 36 Ill. Reg. 564, effective December 29, 2011; preemptory amendment at 36 Ill. Reg. 3957, effective February 24, 2012; preemptory amendment at 36 Ill. Reg. 4158, effective March 5, 2012; preemptory amendment at 36 Ill. Reg. 4437, effective March 9, 2012; amended at 36 Ill. Reg. 4707, effective March 19, 2012; amended at 36 Ill. Reg. 8460, effective May 24, 2012; preemptory amendment at 36 Ill. Reg. 10518, effective June 27, 2012; emergency amendment at 36 Ill. Reg. 11222, effective July 1, 2012, for a maximum of 150 days; preemptory amendment at 36 Ill. Reg. 13680, effective August 15, 2012; preemptory amendment at 36 Ill. Reg. 13973, effective August 22, 2012; preemptory amendment at 36 Ill. Reg. 15498, effective October 16, 2012; amended at 36 Ill. Reg. 16213, effective November 1, 2012; preemptory amendment at 36 Ill. Reg. 17138, effective November 20, 2012; preemptory amendment at 37 Ill. Reg. 3408, effective March 7, 2013; amended at 37 Ill. Reg. 4750, effective April 1, 2013; preemptory amendment at 37 Ill. Reg. 5925, effective April 18, 2013; preemptory amendment at 37 Ill. Reg. 9563, effective June 19, 2013; amended at 37 Ill. Reg. 9939, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 11395, effective July 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 11524, effective July 3, 2013; preemptory amendment at 37 Ill. Reg. 12588, effective July 19, 2013; preemptory amendment at 37 Ill. Reg. 13762, effective August 8, 2013; preemptory amendment at 37 Ill. Reg. 14219, effective August 23,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

2013; amended at 37 Ill. Reg. 16925, effective October 8, 2013; preemptory amendment at 37 Ill. Reg. 17164, effective October 18, 2013; preemptory amendment at 37 Ill. Reg. 20410, effective December 6, 2013; preemptory amendment at 38 Ill. Reg. 2974, effective January 9, 2014; amended at 38 Ill. Reg. 5250, effective February 4, 2014; preemptory amendment at 38 Ill. Reg. 6725, effective March 6, 2014; emergency amendment at 38 Ill. Reg. 9080, effective April 11, 2014, for a maximum of 150 days; preemptory amendment at 38 Ill. Reg. 9136, effective April 11, 2014; amended at 38 Ill. Reg. 9207, effective April 21, 2014; preemptory amendment at 38 Ill. Reg. 13416, effective June 11, 2014; amended at 38 Ill. Reg. 14818, effective July 1, 2014; preemptory amendment at 38 Ill. Reg. 15739, effective July 2, 2014; preemptory amendment at 38 Ill. Reg. 17481, effective July 29, 2014; amended at 38 Ill. Reg. 17556, effective August 6, 2014; preemptory amendment at 38 Ill. Reg. 18791, effective August 26, 2014; preemptory amendment at 38 Ill. Reg. 19806, effective September 26, 2014; amended at 38 Ill. Reg. 20695, effective October 14, 2014; amended at 38 Ill. Reg. 24005, effective December 9, 2014; preemptory amendment at 39 Ill. Reg. 728, effective December 23, 2014; emergency amendment at 39 Ill. Reg. 708, effective December 26, 2014, for a maximum of 150 days; preemptory amendment at 39 Ill. Reg. 6964, effective April 29, 2015; amended at 39 Ill. Reg. 7878, effective May 22, 2015; amended at 39 Ill. Reg. 11220, effective July 28, 2015; preemptory amendment at 39 Ill. Reg. 12004, effective August 13, 2015; preemptory amendment at 39 Ill. Reg. 15807, effective November 25, 2015; amended at 40 Ill. Reg. 5893, effective March 28, 2016; preemptory amendment at 40 Ill. Reg. 8462, effective June 1, 2016; preemptory amendment at 40 Ill. Reg. 9658, effective June 30, 2016; amended at 40 Ill. Reg. 9356, effective July 1, 2016; preemptory amendment at 40 Ill. Reg. 11207, effective August 5, 2016; preemptory amendment at 41 Ill. Reg. 1210, effective January 19, 2017.

SUBPART B: SCHEDULE OF RATES

Section 310.210 Prevailing Rate

- a) Classes – The following are prevailing rate classes:

Baker	Plasterer
Barber	Plumber
Beautician	Roofer
Brickmason	Sewage Plant Operator
Carpenter	Sign Painter
Carpenter Foreman	Sign Painter Helper
Cement Finisher	Stationary Engineer
Electrician	Stationary Engineer – Assistant Chief
Highway Construction Equipment Operator	Stationary Engineer – Chief

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Laborer	Stationary Fireman
Laborer (Building)	Steamfitter
Laborer Foreman	Teacher of Barbering
Machinist	Teacher of Beauty Culture
Maintenance Worker (Power Plant)	Tinsmith
Painter	Trades Tender
Painter Foreman	Water Plant Operator

- b) Boiler Safety Specialist – This section shall apply to employees occupying positions in the Boiler Safety Specialist class that are represented by the RC-008 bargaining unit.
- c) Rate Certification Process and Effective Date – Prevailing rate means the rate of pay for each class and locality certified as being correct by the Designated Representative of the respective Union and approved by the Director of Central Management Services or as established under the Prevailing Wage Act [820 ILCS 130]. Copies of signed Agreements between contractors or other employers and the respective Union shall be certified to the Illinois Department of Central Management Services for each fiscal year of the State by the following process: The Designated Representative of the respective Union shall certify to the Illinois Department of Central Management Services or its designee copies of signed Agreements between contractors or other employers and the respective Union. These certified agreements and accompanying CMS Form shall be considered adequate proof of the prevailing rate of wages to be paid, minus the per hour costs of fringe benefits so designated by Agreement, if any, in keeping with past practice. The Illinois Department of Central Management Services will adjust the wages, retroactive to the contract date; and Certifications from the Union will include a copy of the signed Agreements and the negotiated CMS Prevailing Wage Certification Form. The effective dates of wage changes will be the effective dates reflected in the certified agreements.
- d) Pension Formula Adjustment – Effective January 1, 2006, employees shall be paid an additional 4.00% above the prevailing rate of wages for employees on the standard pension formula and 5.5% above the prevailing rate of wages for employees on the alternative pension formula, minus the per hour costs of fringe benefits. Employees newly hired into a prevailing rate class on or after December 1, 2013 shall be paid the appropriate prevailing rate and shall not be eligible for this pension formula adjustment unless otherwise agreed to by the union representative and the Director of Central Management Services.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

- e) Maximum Security Rates – Positions in maximum security institutions shall receive a \$50 a month adjustment to the employee's monthly wages for all employees with seven or more years of continuous service with the Department of Corrections. Employees shall receive the adjustment as long as they remain employees at a maximum security facility.
- f) Merit Incentive (including Time-Off Awards) and Gain Sharing Programs – The parties agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of such efforts, the Employer may create an annual bonus fund for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from this bonus fund will be based on the satisfaction of performance standards to be developed by the Employer in consultation with the Union. Such compensation either for a group/unit or an individual shall be considered a onetime bonus and will be offered only as a non-pensionable incentive, and that any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation will not be included in any pension calculations and will not affect any future calculations regarding the prevailing wage rate. As a part of such efforts, the Employer may reward individual high-performing employees with time-off awards. High-performing employees may earn up to five (5) days of additional time-off in a calendar year, above and beyond the employee's accrued vacation time. Issuance of a time-off award will be based on the satisfaction of performance standards to be developed by the Employer in consultation with the Union. Scheduling the time-off requires supervisory approval, and only a non-bargaining-unit supervisor can reward an employee with a time-off award. Time off awards can be issued by any non-bargaining-unit supervisor in the employee's evaluation chain. Time-off awards, when taken by the employee, will not count against the employee's leave bank. Unused time-off awards shall not convert to a cash-pay out, nor will the hourly value of the time-off awards be used in any calculation for future wages under the provisions of the Prevailing Wage Act. Additionally, as a part of overall efforts to improve efficiency of state operations and align the incentives of the Employer with its employees, the Employer may develop gain sharing programs. Under such programs, employees or departments may propose initiatives that would achieve substantial savings for the State. Upon realization of such savings, the Employer may elect to return a portion of this savings to the employees who participated in the identified initiative. Such compensation either for a group/unit

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

or an individual shall be considered a one-time bonus and will be offered only as a non-pensionable incentive, and that any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation will not be included in any pension calculations. The Employer will develop specific policies for both of these programs and will give the Union an opportunity to review and comment on such policies prior to their implementation. The Employer's intent is to develop policies that will reward employees or units of employees based on specific achievements and to prevent rewards that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure. The exercise of such rights by management may not conflict with the provisions of this agreement, except that it is understood that awards payable pursuant to such programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in this program may not be grounds for any form of discipline. The Parties understand that the Merit Incentive Program will be effective after the Department of Central Management Services and the Unions mutually agree to its process and procedures.

- 1g) FY2016 Merit Pay – The Employer and Union have agreed to the terms of a Collective Bargaining Agreement. The Agreement states that public employees represented by the Union will earn merit pay. For the Fiscal Year 2016, all bargaining unit employees who are in active employment status on June 30, 2016 and who have missed fewer than five (5) percent of their assigned work days between the effective date of this Agreement and June 30, 2016 and have committed no work policy violations during that period shall receive equal shares of the performance bonus. The performance bonus shall be paid based on 2% of the annual (fiscal year) base salary payroll costs for the bargaining unit. The effective date of this Agreement is April 1, 2016 through June 30, 2016.
- 2) FY2017 Merit Incentive Program – The State and bargaining unit or representative have agreed to the terms of a 2015-2019 CBA. The CBA states that public employees represented by the bargaining unit or representative shall participate in a merit incentive program which includes earning merit pay and additional time off. Employees shall be active on payroll for at least 3 months of the evaluation period to be eligible for merit pay and additional time off. To identify high performers in the bargaining unit or representative, each employee shall be rated

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

annually on criteria specific to the classification to which the position the employee is appointed is allocated. Employees active on payroll more than 3 months of the evaluation period but less than the entire evaluation period shall have any merit pay and additional time off rewards pro-rated to the ration of time worked during the evaluation period.

- A) Merit Pay – The performance bonus pool shall be 2% of the annual (fiscal year) base payroll costs for the bargaining unit or representative effective July 1, 2016. All monies paid out as merit pay shall be considered a one-time and non-pensionable bonus. Employees who have retired or terminated service with the State prior to payout of the merit pay for a fiscal year shall not receive a payout for that fiscal year. The bargaining unit or representative shall be furnished with a list of employees receiving merit pay each year detailing the employing agency and amounts paid.
- i) For Limited Undocumented Use of Sick Leave and No Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the evaluation period shall be eligible for 50% of the performance bonus pool.
- ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be eligible for the remaining 50% of the performance bonus pool.
- B) Additional Time Off – The additional time off shall be scheduled and used in the calendar year it is received with the following exception. If an employee has made at least 3 requests each for different time periods to use the additional time off and each request is denied, the employee may carry over the additional time off to the next calendar year. Additional time off rewarded under the merit incentive program shall not be subject to liquidation for any reason.
- i) For Limited Undocumented Use of Sick Leave and No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the review period shall be rewarded with 12 hours additional time off with pay.

ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be rewarded with 8 hours additional time off with pay.

iii) For Other Reasons – Additional time off rewards may be granted to employees for reasons including: exceptional performance producing a distinct positive outcome; identifying solutions to significant issues; or providing exceptional customer service. The rewards shall be approved by a non-bargaining-unit or non-bargaining-representative supervisor in the employee's evaluation chain. The bargaining unit or representative shall receive notice of all recipients of additional time off as well as the reason for the reward and the amount of time rewarded. The same information shall be posted in the workplace.

3) FY2018 and FY2019 Merit Incentive Program – The parameters of the merit incentive program for FY2018 and FY2019 will be further refined by mutual agreement of the State and bargaining unit or representative.

(Source: Amended by peremptory rulemaking at 41 Ill. Reg. 1210, effective January 19, 2017)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 18, 2017 through January 23, 2017. The rulemakings are scheduled for review at the Committee's February 15, 2017 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
3/5/17	<u>Department of Financial and Professional Regulation</u> , Illinois Physical Therapy Act (68 Ill. Adm. Code 1340)	10/7/16 40 Ill. Reg. 13768	2/15/17
3/5/17	<u>Department of Revenue</u> , Coin-Operated Amusement Device and Redemption Machine Tax (86 Ill. Adm. Code 460)	11/28/16 40 Ill. Reg. 15669	2/15/17
3/5/17	<u>Torture Inquiry and Relief Commission</u> , Organization, Public Information, Procedures and Rulemaking (2 Ill. Adm. Code 3500)	10/14/16 40 Ill. Reg. 14032	2/15/17
3/5/17	<u>Torture Inquiry and Relief Commission</u> , Policy, Hearings, and Forms (20 Ill. Adm. Code 2000)	10/14/16 40 Ill. Reg. 14042	2/15/17

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Income Tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2015. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Apportionment
Compensation
Credits
Nexus

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2015 FOURTH QUARTER INCOME TAX SUNSHINE INDEX

APPORTIONMENT

- IT 15-0002-PLR 10/5/15 Taxpayer's request to change method of sourcing reinsurance premiums under IITA Section 304(b)(2) is granted.
- IT 15-0003-PLR 10/5/15 Taxpayer's request under IITA Section 304(f) is granted, allowing it to apportion to Illinois none of the gain realized on the sale of a subsidiary that is attributable to increases in value of the subsidiary prior to the time the subsidiary or any unitary business group of which it was a member had any connection with the State.

COMPENSATION

- IT 15-0015-GIL 10/29/15 Compensation of an employee who performs significant services within and without the State, and whose base of operations in in another state in which services are performed, is allocated to the state in which the base of operations is located.

CREDITS

- IT 15-0017-GIL 12/14/15 Credits – Other Rulings - Documentation required to support a claim for the credit for hiring unemployed veterans.

NEXUS

- IT 15-0016-GIL 10/29/15 Public Law 86-272/Nexus Nexus issues are not generally suitable for resolution by letter ruling.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring Agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Income Tax Private Letter Rulings and General Information Letters issued Annual listing for 2015. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Alternative Apportionment
Apportionment
Compensation
Credits
Credits-Foreign Tax
Exempt Organizations
Nexus
Partnerships
Subtraction Modifications
Subtraction Modifications-Pensions
Sales Outside the Ordinary Course of Business

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2015 ANNUAL INCOME TAX SUNSHINE INDEX

ALTERNATIVE APPORTIONMENT

- IT 15-0010-GIL 8/31/2015 Request to use separate accounting cannot be granted without evidence that the statutory apportionment formula does not fairly reflect the market for the taxpayer's services.
- IT 15-0012-GIL 9/15/2015 Petition to use separate accounting cannot be granted merely because separate accounting reaches a different tax liability than the statutory apportionment method.
- IT 15-0013-GIL 9/15/2015 Petition to use separate accounting cannot be granted merely because separate accounting reaches a different tax liability than the statutory apportionment method.
- IT 15-0014-GIL 9/15/2015 Petition to use separate accounting cannot be granted merely because separate accounting reaches a different tax liability than the statutory apportionment method.

APPORTIONMENT

- IT 15-0002-PLR 10/5/2015 Taxpayer's request to change method of sourcing reinsurance premiums under IITA Section 304(b)(2) is granted.
- IT 15-0003-PLR 10/5/2015 Taxpayer's request under IITA Section 304(f) is granted, allowing it to apportion to Illinois none of the gain realized on the sale of a subsidiary that is attributable to increases in value of the subsidiary prior to the time the subsidiary or any unitary business group of which it was a member had any connection with the State.

COMPENSATION

- IT 15-0004-GIL 05/27/2015 Payments received in settlement of claims brought by former employee against employer are compensation sourced under IITA Section 304(a)(2)(B).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- IT 15-0007-GIL 07/14/2015 Compensation of an employee performing services in multiple states is sourced entirely to the state in which the employee's base of operations is located.
- IT 15-0015-GIL 10/29/2015 Compensation of an employee who performs significant services within and without the State, and whose base of operations in another state in which services are performed, is allocated to the state in which the base of operations is located.

CREDITS

- IT 15-0001-PLR 7/13/2015 Various issues related to the credits for costs of restoring and preserving historical properties in a River Edge Redevelopment Zone addressed.
- IT 15-0017-GIL 12/14/2015 Credits – Other Rulings - Documentation required to support a claim for the credit for hiring unemployed veterans.

CREDITS – FOREIGN TAX

- IT 15-0003-GIL 5/7/2015 Compensation paid in Illinois under IITA Section 304(a)(2)(B) does not qualify for the credit for taxes paid to other states.

EXEMPT ORGANIZATIONS

- IT 15-0011-GIL 9/8/2015 Exempt organizations that do not have unrelated business taxable income are not subject to Illinois income tax.

NEXUS

- IT 15-0016-GIL 10/29/2015 Public Law 86-272/Nexus Nexus issues are not generally suitable for resolution by letter ruling.

PARTNERSHIPS

- IT 15-0002-GIL 3/27/2015 Seat on an exchange is not a qualified investment securities or "equipment reasonably necessary to carry on" the activities of an investment partnership, but deposits insured by the Securities Investment Protection Corporation are qualified investment securities.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

SUBTRACTION MODIFICATIONS

IT 15-0001-GIL 2/24/2015 Personal service income earned by a nonresident who is in Illinois only because the nonresident's spouse is a member of the military stationed in this State is exempt from Illinois income tax by the Servicemembers Civil Relief Act.

IT 15-0005-GIL 7/10/2015 The Illinois Income Tax Act does not allow or require modifications to the attribute reductions made for federal income tax purposes as the result of excluding discharge of indebtedness income from taxable income.

SUBTRACTION MODIFICATIONS – PENSIONS

IT 15-0008-GIL 8/14/2015 Distributions from a qualified profit-sharing plan under IRC Section (a) may be subtracted from adjusted gross income whether or not rolled over into a Roth IRA.

IT 15-0009-GIL 8/31/2015 No subtraction modification is allowed for refund of state taxes included in corporation's federal taxable income.

SALES OUTSIDE THE ORDINARY COURSE OF BUSINESS (BULK SALES)

IT 15-0006-GIL 7/13/2015 Bulk sales reporting is not required for repossessions of collateral.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Income Tax Private Letter Rulings and General Information Letters issued for the First Quarter of 2016. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

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Credits

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The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 FIRST QUARTER INCOME TAX SUNSHINE INDEX

APPORTIONMENT

IT 16-0002-GIL 02/09/2016 Non-resident partner. Non-resident partner includes in Illinois net income his or her distributive share of the business income of the partnership apportioned to Illinois. (This is a GIL).

CREDITS

IT 16-0001-GIL 02/03/2016 For purposes of computing the credit under IITA Section 208, property taxes paid during taxable year must be reduced by amount of property tax refunded during taxable year. (This is a GIL).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Income Tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2016. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

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Signature
Subtraction Modifications

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 THIRD QUARTER INCOME TAX SUNSHINE INDEX

SIGNATURE

IT 16-0005-GIL 09/27/2016 Income Tax Return Preparer must include PTIN on returns filed under the IITA as required by Department rules.

SUBTRACTION MODIFICATIONS

IT 16-0001-PLR 7/11/2016 Distributive Share of income from Partnership's engineering services business allocated to retired partner qualifies for the subtraction modification under IITA Section 203(d)(2)(H).

IT 16-0003-GIL 07/12/2016 Compensation paid to members of the National Guard qualifies for the subtraction modification under IITA Section 203(a)(2)(E)

IT 16-0004-GIL 09/02/2016 Subtraction modification for retirement payments to retired partners applies only to payments described in IRC Section 1402(a)(10).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Income Tax Private Letter Rulings and General Information Letters issued for the Fourth Quarter of 2016 Private Letter Rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private Letter Rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General Information Letters contain general discussions of tax principles or applications. General Information Letters are designed to provide general background information on topics of interest to taxpayers. General Information Letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General Information Letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

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Allocation
Apportionment
Returns
Subtraction Modifications

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 FOURTH QUARTER INCOME TAX SUNSHINE INDEX

ALLOCATION

IT 16-0006-GIL 11/23/2016 Gain from sale of stock is not allocated to Illinois where taxpayer is a nonresident and gain is nonbusiness income. (This is a GIL)

APPORTIONMENT

IT 16-0002-PLR 11/18/2016 Income from Intangible Property – Where taxpayer is a dealer, gain from sale of partnership interest is included in numerator of sales factor where gain is received from customer in Illinois

RETURNS

IT 16-0007-GIL 12/05/2016 A nonresident partner whose liability for income and replacement tax is fully satisfied by amounts withheld on its behalf under IITA Section 502(a)(1). (This is a GIL.)

SUBTRACTION MODIFICATIONS

ST 16-0008-GIL 12/07/2016 Civilian income paid for a position that requires membership in the Illinois National Guard does not qualify for tax-exemption status for Illinois income tax purposes. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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NOTICE OF PUBLIC INFORMATION

2016 ANNUAL INCOME TAX SUNSHINE INDEX

ALLOCATION

IT 16-0006-GIL 11/23/2016 Gain from sale of stock is not allocated to Illinois where taxpayer is a nonresident and gain is nonbusiness income. (This is a GIL)

APPORTIONMENT

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IT 16-0002-PLR 11/18/2016 Income from Intangible Property – Where taxpayer is a dealer, gain from sale of partnership interest is included in numerator of sales factor where gain is received from customer in Illinois

CREDITS

IT 16-0001-GIL 02/03/2016 For purposes of computing the credit under IITA Section 208, property taxes paid during taxable year must be reduced by amount of property tax refunded during taxable year.

RETURNS

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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- ST 16-0008-GIL 12/07/2016 Civilian income paid for a position that requires membership in the Illinois National Guard does not qualify for tax-exemption status for Illinois income tax purposes. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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Cigarette Tax	Miscellaneous
Delivery Charges	Motor Vehicles
Farm Machinery & Equipment	Nexus
Hotel Operators' Tax	Repairs
Leasing	Sale at Retail
Local Taxes	Sale of Service
Manufacturing	
Manufacturing Machinery & Equipment	

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 FOURTH QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

CIGARETTE TAX

ST 16-0055-GIL 11/01/2016 This letter discusses distributor licenses. 35 ILCS 130/1; 86 Ill. Adm. Code 440.50. (This is a GIL.)

DELIVERY CHARGES

ST 16-0053-GIL 10/03/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 16-0063-GIL 11/14/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 16-0065-GIL 12/15/2016 This letter discusses transportation and delivery charges. 86 Ill. Adm. Code 130.415. (This is a GIL.)

FARM MACHINERY & EQUIPMENT

ST 16-0060-GIL 11/02/2016 An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

HOTEL OPERATORS' TAX

ST 16-0057-GIL 11/01/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)

ST 16-0058-GIL 11/01/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)

LEASING

ST 16-0054-GIL 10/03/2016 If persons who are engaged in the business of selling tangible personal property to purchasers for use or consumption purport to rent or lease the use of any such property to a nominal lessee or bailee, but

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

in fact sell such tangible personal property to the nominal lessee or bailee for use or consumption, all of the receipts received by the lessor/retailer under such a conditional sales contract are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2010. (This is a GIL).

ST 16-0059-GIL 11/02/2016 If lessee, under a true lease, agrees to reimburse the lessor for its Use Tax liability and lessee subsequently buys the leased vehicle, the lessee owes sales tax on his purchase price of the car. See 86 Ill. Adm. Code 130.2010(b) and 86 Ill. Adm. Code 130.2013(h).

LOCAL TAXES

ST 16-0013-PLR 10/06/2016 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MANUFACTURING

ST 16-0014-PLR 11/23/2016 The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing. 86 Ill. Adm. Code 130.330(b)(7). (This is a PLR.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 16-0067 GIL 12/27/2016 Generally, photocopiers do not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

MISCELLANEOUS

ST 16-0064-GIL 11/23/2016 Diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State and delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river is exempt from the

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Environmental Impact Fee and the Motor Fuel Tax. See 415 ILCS 125/310 and 35 ILCS 505/2a. (This is a GIL.)

MOTOR VEHICLES

ST 16-0061-GIL 11/02/2016 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

NEXUS

ST 16-0069-GIL 12/30/2016 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

REPAIRS

ST 16-0056-GIL 11/01/2016 The taxability of maintenance agreements depends upon whether charges for the agreements are included in the selling price of the tangible personal property. See 86 Ill. Adm. Code 140.141 and 140.301. (This is a GIL.)

SALE AT RETAIL

ST 16-0062 GIL 11/03/2016 Most retailers will not act as a construction contractor. If a purchaser buys an appliance from a retailer and the purchaser contracts with the retailer separately for installation, the seller must pay ROT on receipts received from the sale of the dishwasher. Installation would only be taxable if it was included in the selling price of the product. 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 16-0066-GIL 12/19/2016 If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

SALE OF SERVICE

ST 16-0068 GIL 12/27/2016 If tangible personal property is transferred to the customer incident to a sale of service, then Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

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The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Automobile Renting Tax
C.O.A.D.
Cigarette Tax
Computer Software
Construction Contractors
Delivery Charges
Enterprise Zones
Exempt Organizations
Farm Machinery & Equipment
Food
Food, Drugs & Medical Appliances

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Gas Revenue Tax
Gross Receipts
Hotel Operators' Tax
Leasing
Local Taxes
Manufacturing
Manufacturing Machinery & Equipment
Miscellaneous
Motor Vehicles
Nexus
Pollution Control Facilities
Repairs
Returns
Sale at Retail
Sale for Resale
Sale of Service
Service Occupation Tax
Telecommunications Excise Tax
Use Tax

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DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2016 ANNUAL SALES & MISCELLANEOUS TAX SUNSHINE INDEX

AUTOMOBILE RENTING TAX

ST 16-0013-GIL 03/15/2016 Persons who are engaged in the business of renting automobiles in Illinois under rental terms of one year or less are subject to the Automobile Renting Occupation and Use Tax set forth at 35 ILCS 155/1 et seq. See 86 Ill. Adm. Code 180.101. (This is a GIL).

C.O.A.D.

ST 16-0001-GIL 01/04/2016 A coin-operated amusement device includes any "...device operated or operable by insertion of coins, tokens, chips or similar objects...which returns to the player thereof no money or property or right to receive money or property..." 35 ILCS 510/1. (This is a GIL).

CIGARETTE TAX

ST 16-0055-GIL 11/01/2016 This letter discusses distributor licenses. 35 ILCS 130/1; 86 Ill. Adm. Code 440.50. (This is a GIL.)

COMPUTER SOFTWARE

ST 16-0003-PLR 03/26/16 This letter discusses the taxability of computer software. See 86 Ill. Adm. Code 130.1935. (This is a PLR.)

ST 16-0029-GIL 07/20/2016 This letter discusses the taxability of computer software and charges related to the sale of software. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 16-0033-GIL 08/17/2016 A provider of software as a service is acting as a serviceman. If the provider does not the transfer any tangible personal property to the customer, then the transaction generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the subscriber is receiving computer software that is subject to tax. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0034-GIL 08/17/2016 A provider of software as a service is acting as a serviceman. If the provider does not the transfer any tangible personal property to the customer, then the transaction generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the subscriber is receiving computer software that is subject to tax. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)
- ST 16-0035-GIL 08/17/16 A provider of software as a service is acting as a serviceman. If the provider does not the transfer any tangible personal property to the customer, then the transaction generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the subscriber is receiving computer software that is subject to tax. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)
- ST 16-0038-GIL 08/18/2016 A provider of software as a service is acting as a serviceman. If the provider does not the transfer any tangible personal property to the customer, then the transaction generally would not be subject to Retailers' Occupation Tax, Use Tax, Service Occupation Tax, or Service Use Tax. If the provider transfers to the customer an API, applet, desktop agent, or a remote access agent to enable the customer to access the provider's network and services, it appears the subscriber is receiving computer software that is subject to tax. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

CONSTRUCTION CONTRACTORS

- ST 16-0007-GIL 02/02/2016 This letter concerns installation of security systems. See 86 Ill. Adm. Code 130.1940. (This is a GIL.).
- ST 16-0015-GIL 04/25/16 Persons who sell signs may incur a Retailers' Occupation Tax, Service Occupation Tax or Use Tax liability, depending upon the circumstances of the particular sale. See 86 Ill. Adm. Code 130.2155 (Tax

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Liability of Sign Vendors); 86 Ill. Adm. Code 140.101 (Basis and Rate of the Service Occupation Tax); 86 Ill. Adm. Code 130.1940 (Construction Contractors and Real Estate Developers) and 86 Ill. Adm. Code 130.2075 (Sales To Construction Contractors, Real Estate Developers and Speculative Builders). (This is a GIL.)

ST 16-0045-GIL 09/14/2016 When landscape contractors purchase items of tangible personal property that will not be permanently affixed to real estate, the supplier incurs Retailers' Occupation Tax and the contractors must pay Use Tax to their suppliers. See 86 Ill. Adm. Code 130.1940. (This is a GIL.)

ST 16-0050-GIL 09/30/2016 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075. (This is a GIL.)

DELIVERY CHARGES

ST 16-0021-GIL 06/31/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 16-0006-PLR 07/29/2016 This letter discusses transportation and delivery charges. See 86 Ill. Adm. Code 130.415. (This is a PLR.)

ST 16-0039-GIL 08/30/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). (This is a GIL.)

ST 16-0047-GIL 09/21/2016 This letter discusses into plane fees in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

ST 16-0053-GIL 10/03/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0063-GIL 11/14/2016 This letter discusses transportation and delivery charges in light of the decision in *Kean v. Wal-Mart Stores, Inc.*, 235 Ill. 2d 351, 919 N.E.2d 926 (2009). See 86 Ill. Adm. Code 130.415. (This is a GIL.)
- ST 16-0065-GIL 12/15/2016 This letter discusses transportation and delivery charges. 86 Ill. Adm. Code 130.415. (This is a GIL.)

ENTERPRISE ZONES

- ST 16-0026-GIL 06/20/2016 The enterprise zone building materials exemption is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)
- ST 16-0005-PLR 07/18/2016 The Enterprise Zone building materials exemption is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951. (This is a PLR.)
- ST 16-0036-GIL 08/18/2016 The enterprise zone building materials exemption is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

EXEMPT ORGANIZATIONS

- ST 16-0016-GIL 05/02/2016 Tangible personal property may only be purchased tax free when the sale is made directly to an exempt organization, which possesses a valid and active exemption identification number (E-number). See 35 ILCS 120/2-5(11).
- ST 16-0008-PLR 08/17/2016 This letter explains that hospitals that meet the criteria for an exemption under Section 2-9 of the Retailers' Occupation Tax Act (35 ILCS 120/2-9) do not incur Retailers' Occupation Tax when selling food, medicine or grooming and hygiene products to their patients in connection with the furnishing of hospital service to them. See 86 Ill. Adm. Code 130.2005(b)(1)(a) and 130.2005(a)(2)(A). (This is a PLR.)

FARM MACHINERY & EQUIPMENT

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0022-GIL 06/02/2016 Off-road equipment used primarily in forestry harvesting and timber operations can qualify for the exemption afforded farm machinery and equipment used primarily in production agriculture, or in State or Federal agricultural programs. See 86 Ill. Adm. Code 130.305. (This is a GIL.)
- ST 16-0023-GIL 06/02/2016 The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)
- ST 16-0060-GIL 11/02/2016 An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

FOOD

- ST 16-0011-GIL 03/24/2016 This letter discusses the applicable sales tax rates for food and candy. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

- ST 16-0002-PLR 03/15/16 This letter discusses the rules regarding the taxability of drugs and medical appliances. See 86 Ill. Adm. Code 130.311. (This is a PLR.)

GAS REVENUE TAX

- ST 16-0014-GIL 03/16/16 Transactions with customers that are exempt from tax under the Gas Use Tax Law or otherwise incur no tax liability under that Law remain subject to tax under the Gas Revenue Tax Act. 86 Ill. Adm. Code 470.172(b). (This is a GIL.)
- ST 16-0019-GIL 05/02/2016 The Gas Revenue Tax is imposed upon persons engaged in this State in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale. See 86 Ill. Adm. Code 470.110 and 470.185. (This is a GIL.)

GROSS RECEIPTS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-00005-GIL 02/01/2016 Gross receipts from sales of E15 (a blend of 85% gasoline and 15% ethanol) are subject to Retailers' Occupation Tax without deduction (unlike gasohol and majority blended ethanol fuel, for which deductions are authorized by statute). See 35 ILCS 120/2-10. (This is a GIL.)
- ST 16-0010-GIL 02/05/2016 In the absence of explicit agreement, identification of goods to a contract occurs, if the contract is for the sale of future goods, when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers. See 86 Ill. Adm. Code 130.340. (This is a GIL.)
- ST 16-0030 GIL 07/21/2016 When a retailer allows a purchaser a discount from the selling price on the basis of a coupon for which the retailer receives no reimbursement from any source, the amount of such discount is not included in gross receipts for calculating Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2125. (This is a GIL.)
- ST 16-0010-PLR 09/16/2016 Membership fees are not gross receipts from the sale of tangible personal property. Membership fees are gross receipts received in exchange for an intangible. See 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 140.101. (This is a PLR.)

HOTEL OPERATORS' TAX

- ST 16-0001-PLR 01/13/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a PLR.)
- ST 16-0052-gil 09/30/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)
- ST 16-0057-GIL 11/01/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)
- ST 16-0058-GIL 11/01/2016 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101(b)(3). (This is a GIL.)

LEASING

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0003-GIL 01/07/2016 Information regarding sales tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 16-0012-GIL 03/15/2016 Information regarding the tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 16-0011-PLR 09/15/2016 This letter addresses whether a finance lease is a conditional sale or a true lease. See 86 Ill. Adm. Code 130.2010. (This is a PLR.)
- ST 16-0051-GIL 09/30/2016 Information regarding the tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 16-0054-GIL 10/03/2016 If persons who are engaged in the business of selling tangible personal property to purchasers for use or consumption purport to rent or lease the use of any such property to a nominal lessee or bailee, but in fact sell such tangible personal property to the nominal lessee or bailee for use or consumption, all of the receipts received by the lessor/retailer under such a conditional sales contract are subject to Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.2010. (This is a GIL.)
- ST 16-0059-GIL 11/02/2016 If lessee, under a true lease, agrees to reimburse the lessor for its Use Tax liability and lessee subsequently buys the leased vehicle, the lessee owes sales tax on his purchase price of the car. See 86 Ill. Adm. Code 130.2010(b) and 86 Ill. Adm. Code 130.2013(h).

LOCAL TAXES

- ST 16-0007-PLR 07/29/2016 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0012-PLR 09/26/2016 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

ST 16-0013-PLR 10/06/2016 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MANUFACTURING

ST 16-0014-PLR 11/23/2016 The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing. 86 Ill. Adm. Code 130.330(b)(7). (This is a PLR.)

MANUFACTURING MACHINERY & EQUIPMENT

ST 16-0004-PLR 07/08/2016 Post-production storage facilities do not generally qualify for the manufacturing machinery and equipment exemption. However, a refrigeration or freezer facility maintained at a specific temperature which is required in order to preserve a manufactured product, can qualify for the exemption. See 86 Ill. Adm. Code 130.330. (This is a PLR.)

ST 16-0028-GIL 07/08/2016 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. The manufacturing process is the production of articles of tangible personal property or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

- ST 16-0009-PLR 08/17/2016 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. Machinery and equipment used to manufacture compressed natural gas can qualify for the exemption. See 86 Ill. Adm. Code 130.330. (This is a PLR.)
- ST 16-0040-GIL 09/28/2016 This letter clarifies and corrects part of the Department's previous response provided in our General Information Letter dated July 31, 2009, ST 09-0101, wherein we incorrectly stated that the rules exempt gases that are consumed in a manufacturing process.
NOTE: Gases are not generally exempt under Section 130.330(c)(3).
- ST 16-0041-GIL 09/29/2016 This letter clarifies and corrects part of the Department's previous response provided in our General Information Letter dated August 31, 2009, ST 09-0112, wherein we incorrectly stated that the rules exempt gases that are consumed in a manufacturing process.
NOTE: Gases are not generally exempt under Section 130.330(c)(3).
- ST 16-0042-GIL 09/29/2016 This letter clarifies and corrects part of the Department's previous response provided in our General Information Letter dated April 1, 2011, ST 11-0021, wherein we incorrectly stated that the rules exempt gases that are consumed in a manufacturing process.
NOTE: Gases are not generally exempt under Section 130.330(c)(3).
- ST 16-0043-GIL 09/29/2016 This letter clarifies and corrects part of the Department's previous response provided in our General Information Letter dated September 29, 1999, ST 99-0296, wherein we incorrectly stated that the rules exempt gases that are consumed in a manufacturing process.
NOTE: Gases are not generally exempt under Section 130.330(c)(3).

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0067 GIL 12/27/2016 Generally, photocopiers do not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

MISCELLANEOUS

ST 16-0009-GIL 02/04/2016 Municipal gas taxes imposed under the authority provided in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) are not administered by the Department of Revenue. (This is a GIL.)

ST 16-0027-GIL 06/02/2016 Occupation taxes imposed by units of local government that are administered by the Illinois Department of Revenue generally are subject to the same exemptions contained in the State Retailers' Occupation Tax Act. See 86 Ill. Adm. Code 693.120. (This is a GIL.)

ST 16-0037-GIL 08/18/2016 This letter responds to an annual survey. (This is a GIL.)

ST 16-0064-GIL 11/23/2016 Diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State and delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river is exempt from the Environmental Impact Fee and the Motor Fuel Tax. See 415 ILCS 125/310 and 35 ILCS 505/2a. (This is a GIL.)

MOTOR VEHICLES

ST 16-0018-GIL 05/02/2016 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

ST 16-0048-GIL 09/27/2016 The Department will not approve the accuracy of private legal publications. (This is a GIL.)

ST 16-0061-GIL 11/02/2016 This letter responds to a survey concerning taxation of vehicles. (This is a GIL.)

NEXUS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0006-GIL 02/02/2016 This letter responds to a questionnaire regarding nexus. See Quill Corp. v. North Dakota, 112 S. Ct. 1904 (1992). (This is a GIL.)
- ST 16-0024-GIL 06/03/2016 A retailer maintaining a place of business in Illinois must collect tax from users in accordance with the Retailers' Occupation Tax Act and the Use Tax Act by adding the tax to the selling price of tangible personal property, when sold for use. See 86 Ill. Adm. 150.401. (This is a GIL.)
- ST 16-0069-GIL 12/30/2016 This letter discusses nexus. See Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)

POLLUTION CONTROL FACILITIES

- ST 16-0020-GIL 05/31/2016 The pollution control exemption expired July 1, 2003. See 86 Ill. Adm. Code 130.335. (This is a GIL.)

REPAIRS

- ST 16-0056-GIL 11/01/2016 The taxability of maintenance agreements depends upon whether charges for the agreements are included in the selling price of the tangible personal property. See 86 Ill. Adm. Code 140.141 and 140.301. (This is a GIL.)

RETURNS

- ST 16-0046-GIL 09/15/2016 The exemption from Retailers' Occupation Tax for sales of biodiesel blends with more than 10% biodiesel includes biodiesel blends with more than 10% but less than 11% biodiesel and, until the Form is changed, may be reported on Form ST-1 under "Other motor fuel deductions." See 35 ILCS 120/2-10. (This is a GIL.)

SALE AT RETAIL

- ST 16-0017-GIL 05/02/2016 Persons selling tangible personal property at retail are required to register with the Department prior to making sales at retail. See 86 Ill. Adm. Code 130.701. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 16-0062 GIL 11/03/2016 Most retailers will not act as a construction contractor. If a purchaser buys an appliance from a retailer and the purchaser contracts with the retailer separately for installation, the seller must pay ROT on receipts received from the sale of the dishwasher. Installation would only be taxable if it was included in the selling price of the product. 86 Ill. Adm. Code 130.1940. (This is a GIL.)
- ST 16-0066-GIL 12/19/2016 If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

SALE FOR RESALE

- ST 16-0008-GIL 02/04/2016 This letter is a response to a survey regarding drop shipments. For information regarding drop shipments, see the Department's regulation entitled "Drop Shipments," found at 86 Ill. Adm. Code 130.225. (This is a GIL.)

SALE OF SERVICE

- ST 16-0004-GIL 01/13/2016 If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)
- ST 16-0068 GIL 12/27/2016 If tangible personal property is transferred to the customer incident to a sale of service, then Service Occupation Tax would apply.

SERVICE OCCUPATION TAX

- ST 16-0002-GIL 01/06/2016 Membership fees are generally considered intangibles and are not subject to Retailers' Occupation Tax or Use Tax. If a membership charge entitles the customer to receive an item of tangible personal property or to receive a service and tangible personal property is transferred incident to the service, the charge may result in Retailers' Occupation Tax liability, Service Occupation Tax liability, or Use Tax liability. See 86 Ill. Adm. Code 130.401(d) and 86 Ill. Adm. Code 140.101. (This is a GIL.)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 16-0025-GIL 06/09/2016 This letter concerns tax imposed on tangible personal property transferred incident to sales of service to persons covered by Medicaid or Medicare. See 86 Ill. Adm. Code Part 140. (This is a GIL.)

ST 16-0031-GIL 07/29/16 This letter discusses the methods for calculating Service Occupation Tax on sales made to Medicare and Medicaid. See 86 Ill. Adm. Code 140.108. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

ST 16-0032-GIL 07/29/2016 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois. See 35 ILCS 630/1 et seq.

ST 16-0044-GIL 09/07/2016 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code Part 495. (This is a GIL).

USE TAX

ST 16-0049-GIL 09/28/2016 The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 41, Issue 5 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

35 - 681	.....	748
89 - 512	.....	782
74 - 722	.....	789
80 - 1600	.....	808
23 - 2730	.....	825
23 - 2757	.....	832
23 - 2765	.....	838

ADOPTED RULES

41 - 2120	1/17/2017	846
83 - 466	1/20/2017	862
83 - 467	1/20/2017	958
68 - 1120	1/27/2017	976
68 - 1160	1/27/2017	981
89 - 140	1/19/2017	999
89 - 148	1/19/2017	1041
89 - 149	1/19/2017	1059
89 - 152	1/19/2017	1064
2 - 1976	1/23/2017	1072
2 - 1976	1/23/2017	1074
35 - 211	1/23/2017	1096
35 - 243	1/23/2017	1121
35 - 307	1/23/2017	1129
35 - 310	1/23/2017	1155
35 - 813	1/23/2017	1201

PEREMPTORY RULES

80 - 310	1/19/2017	1210
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