

# 2004

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



Volume 28 Issue 5  
January 30, 2004  
Pages 1548-1819

Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
(217) 782-7017  
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.
  - B) Reporting, bookkeeping or other procedures required for compliance: Filing procedures
  - C) Types of professional skills necessary for compliance: Managerial skills
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

The full text of the proposed amendment begins on the next page:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIESPART 755  
TELECOMMUNICATIONS ACCESS FOR PERSONS WITH DISABILITIES

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## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

## SUBPART D: POSSESSION AND MAINTENANCE

## Section

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## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

755.EXHIBIT K	Projected Line Charge Filing Expenses (Schedule A-11) (Repealed)
755.EXHIBIT L	Comparative Actual and Projected Balance Sheets, At Proposed Line Charge, As Adjusted (Schedule A-12)
755.EXHIBIT M	Comparative Actual and Projected Statements of Revenues and Expenses at Proposed Line Charge, As Adjusted (Schedule A-13) (Repealed)
755.EXHIBIT N	Local Exchange Carrier Monthly Report to ITAC (Repealed)

AUTHORITY: Implementing Section 13-703 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-703 and 10-101].

SOURCE: Adopted at 12 Ill. Reg. 3687, effective February 1, 1988; amended at 14 Ill. Reg. 3042, effective February 15, 1990; emergency amendments at 14 Ill. Reg. 19375, effective November 25, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 5624, effective April 15, 1991; amended at 17 Ill. Reg. 5594, effective March 31, 1993; amended at 19 Ill. Reg. 17105, effective January 1, 1996; expedited correction at 20 Ill. Reg. 11490, effective January 1, 1996; amended at 28 Ill. Reg. 859, effective January 1, 2004; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: ELIGIBILITY AND PARTICIPATION

**Section 755.210 Eligibility and Application for Equipment for Organizations**

- a) Organizations having more than one office receiving basic telephone service shall designate one office to receive the equipment.
- b) Recipient status shall be granted to the organization. The president, executive director, or other official of the organization shall sign the appropriate application forms on behalf of the organization.
- c) The organization shall assume all responsibilities and liabilities for the equipment prescribed for recipients by this Part.
- d) The organization shall file a verified Application or Petition for Eligibility with the Commission containing the following:
  - 1) Address and telephone number of the organization's headquarters and the office to which the equipment will be assigned;
  - 2) Statement explaining how the organization meets the definition of "organization" contained in Section 755.10;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 3) Statement of the equipment applied for and a demonstration that the organization's primary purpose is serving those persons with disabilities who require that kind of equipment;
  - 4) Full names, addresses, and telephone numbers of officers who can act for the organization;
  - 5) Articles of incorporation, by-laws, charter, or any other documenting evidence supporting the statement required by subsection (d)(2);
  - 6) Most recent annual report (if applicable).
- e) The organization's eligibility will be determined by the Commission upon the filing of a complete verified Application or Petition. A determination of eligibility shall be based on a finding by the Commission that the organization meets the definition of "organization" contained in Section 755.10 and that its primary purpose is to serve the needs of those persons with disabilities who require the equipment for which the organization has applied.
- f) The verified Application or Petition for Eligibility and all subsequent documents filed and orders issued in a proceeding under this Section shall be served on ITAC pursuant to 83 Ill. Adm. Code 200.150.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 2676
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2676.20	Amendment
2676.30	Amendment
2676.50	Amendment
2676.60	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: Updates statutory citations. Updates agency addresses.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
  - C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004  
This rulemaking, in part, was not included on either of the 2 most recent regulatory agendas because: The need to update agency addresses was discovered after the preparation of the most recent agenda.

The full text of the proposed amendments begins on the next page:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER XLVIII: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARDPART 2676  
FREEDOM OF INFORMATION

Section	
2676.10	General Categories of Board Records
2676.20	Availability of Certain records
2676.30	Requests for Access to Records
2676.40	Initial Response to Request
2676.50	Appeal of Denial of Access
2676.60	Place and Time of Inspection
2676.70	Copies

AUTHORITY: Implementing Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)] and authorized by Section 5(i) of the Educational Labor Relations Act [115 ILCS 5/5(i)].

SOURCE: Adopted at 14 Ill. Reg. 4151, effective March 2, 1990; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 2676.20 Availability of Certain Records**

- a) The following records maintained by the Board are readily available for public inspection, meaning they are subject to disclosure and copies are maintained in such a fashion as to ordinarily be accessible for inspection on short notice:
- 1) Dockets of cases filed with the Board.
  - 2) Pending Representation Petitions (including for certification, decertification, clarification and amendment of certification).
  - 3) Current certifications of exclusive bargaining representatives and certifications of result.
  - 4) Pending unfair labor practice charges.
  - 5) Decisions and Orders rendered by hearing officers, the Executive Director

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

and the Board.

- 6) The Labor Mediation Roster, including vitae of roster members.
  - 7) Minutes of Board meetings.
  - 8) Freedom of Information Requests and the records showing their dispositions.
  - 9) Files in unfair labor practice and representation cases that have been closed for six months or more.
- b) The following records are deemed accessible for public inspection, but may not be available on short notice; advance arrangements should be made:
- 1) Hearing Records, including transcripts, briefs filed to hearing officers and exceptions and briefs filed with the Board and other record materials from Board-conducted hearings in both closed representation and unfair labor practice cases.
  - 2) Mediation/Arbitration records, including requests to the Board for the appointment of mediators, fact-finders and arbitrators pursuant to Section 12 of the Act, the Board's responses to such requests, and the reports filed with the Board by fact-finders and interest arbitrators.
  - 3) Rulemaking files, covering the Board's proposal, review and adoption of regulations.
  - 4) Collective Bargaining Agreements filed with the Board by covered employers.
  - 5) Files in unfair labor practice and representation cases that have been closed less than 6 months.
- c) The following records are regarded as confidential and exempt from disclosure under all circumstances:
- 1) Showings of Interest submitted to the Board in conjunction with petitions in representation cases, and materials generated by the Board's investigations of such showings.

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 2) Files in pending unfair labor practice and representation cases.
  - 3) Records in representation cases potentially identifying voters (or non-voters) and the character of their votes in secret ballot elections conducted by the Board.
  - 4) Internal Personnel Files regarding Board employees.
  - 5) Preliminary drafts, notes, recommendations and memoranda by Board members or Board personnel in which opinions are expressed or policies or actions are proposed or formulated.
  - 6) Drafts, notes, recommendations, memoranda and other materials relating to pending litigation involving the Board.
- d) All other records maintained by the Board, shall be available for public inspection, to the extent mandated by the Freedom of Information Act [\[5 ILCS 140\]](#) (~~Ill. Rev. Stat. 1987, ch. 116, pars. 201 et seq.~~), pursuant to the procedures specified in Section 2676.30.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2676.30 Requests for Access to Records**

Requests under the Freedom of Information Act for access to public records of the Illinois Educational Labor Relations Board shall be submitted to the Executive Director, Illinois Educational Labor Relations Board, [160 North LaSalle Street, Suite N-400, 20 North Wacker Drive, Suite 1000](#), Chicago, Illinois [6060160606](#). Each request submitted by mail should be enclosed in an envelope clearly marked "FOIA REQUEST".

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2676.50 Appeal of Denial of Access**

- a) A person whose written request for public records has been denied by the staff of the Board may appeal the denial to the Board. The appeal must be in writing and must include a copy of the original request, a copy of the denial (if any), and a statement of the reasons why the denial should be overturned.

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- b) An appeal to the Board shall be addressed to it, to the attention of the General Counsel, at 160 North LaSalle Street, Suite N-400, 20 North Wacker Drive, Suite 1000, Chicago, Illinois 6060160606, and shall be clearly designated: "ATTN: FOIA APPEAL."
- c) The Board shall determine a requester's appeal within 7 working days after its receipt. If the Board grants the appeal, a written notice to that effect shall inform the requester how and when the records will be made available. If the Board denies the appeal, in whole or in part, a written notice shall inform the requester that judicial review of the denial is available under Section 11 of the Freedom of Information Act [5 ILCS 140/11] (Ill. Rev. Stat. 1987, ch. 116, par. 211.).
- d) The Board's failure to determine an appeal within 7 working days after its receipt may be treated by the requester as a denial of the appeal.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2676.60 Place and Time of Inspection**

Public records maintained by the Board will be made available for inspection pursuant to this Part at the Board's offices at either 320 West Washington Street, Suite 260 Suite 200, Springfield, Illinois 62701 or 160 North LaSalle Street, Suite N-400, 20 North Wacker Drive, Suite 1000, Chicago, Illinois 6060160606, during regular office hours (8:30 a.m. to 5:00 p.m.) on days other than Saturdays, Sundays and legal holidays. The Board will determine at which office the records will be available.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Americans with Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 900
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
900.20	Amendment
900.50	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: Updates statutory citation. Changes address of Designated Coordinator.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) Initial Regulatory Flexibility Analysis:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need to change the address of the Designated Coordinator was discovered after the preparation of the most recent agenda.

The full text of the proposed amendments begins on the next page:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 4: DISCRIMINATION PROCEDURES  
CHAPTER XXXIII: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARDPART 900  
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
900.10	Purpose
900.20	Definitions
900.30	Procedure
900.40	Designated Coordinator Level
900.50	Final Level
900.60	Accessibility
900.70	Case-by-Case Resolution

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and section 35.107 of Title II (28 CFR 35.107).

SOURCE: Adopted at 17 Ill. Reg. 9887, effective June 17, 1993; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 900.20 Definitions**

- a) Complainant  
A complainant is an individual with a disability who files a Grievance Form provided by the Board under this procedure.
- b) Designated Coordinator  
The Designated Coordinator is the ~~person~~person(s) appointed by the Chairman of the Board who is/are responsible for the coordination of efforts of the Board to comply with and carry out its responsibilities under Title II of the ADA including investigation of grievances filed by complainants. The Designated Coordinator may be contacted at 160 North LaSalle Street, Suite N-400, Chicago, Illinois 60601, ~~320 West Washington, Floor 2, Springfield IL 62701~~. See 28 CFR 35.107.
- c) Grievance  
A grievance is any complaint under the ADA by an individual with a disability who:
  - 1) meets the essential eligibility requirements for participation in or receipt of

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

the benefits of a program, activity or service offered by the Board, and

- 2) believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Board or has been subject to discrimination by the Board.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 900.50 Final Level**

- a) If the grievance has not been resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Chairman of the Board for final review. The complainant shall submit these documents to the Chairman, together with a short written statement explaining the ~~reasons~~ ~~reason(s)~~ for dissatisfaction with the Designated Coordinator's written response, within five ~~(5)~~ business days after receipt by the complainant of the Designated Coordinator's response.
- b) The Chairman shall appoint a three-member panel to review the grievance at the Final Level. One member so appointed shall be designated chairman.
- c) The complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his/her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon reaching a concurrence, the panel shall make recommendations in writing to the Chairman as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Chairman in writing and shall also sign such recommendation.
- e) Upon receipt of recommendations from a panel, the Chairman shall approve, disapprove or modify the panel's recommendations, shall render a decision thereon in writing, shall state the basis therefor, and shall cause a copy of the decision to be served on the parties. The Chairman's decision shall be final. If the Chairman disapproves or modifies the panel's recommendations, the Chairman shall include written reasons for such disapproval or modification.

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of the Chairman shall be maintained in accordance with the State Records Act (~~Ill. Rev. Stat. 1991, ch. 116, par. 43.4 et seq.~~) [5 ILCS 160], or as otherwise required by law.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1100
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1100.10	Amendment
1100.20	Amendment
1100.70	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments provide definitions for the recognition of employee organizations as exclusive representatives by means of a card check. These amendments provide for filing and service of documents by facsimile and electronic means. These amendments provide a date for the production of subpoenaed documents. These amendments update the title of the Chief Administrative Law Judge. In addition, these amendments update statutory citations.
- 6) Will these proposed amendments replace any emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? Yes. The amendments provide that witnesses receive the same fees and mileage as provided in 705 ILCS 35/4.3.
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
  - C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

The full text of the proposed amendments begins on the next page:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARDPART 1100  
GENERAL PROCEDURES

## Section

1100.10	Definitions
1100.20	Filing and Service of Documents
1100.30	Computation and Extensions of Time
1100.40	Hearing Officers
1100.50	Recording of Hearings
1100.60	Representation of Parties
1100.70	Subpoenas
1100.80	Limitation on Practice Before the Board by Former Employees
1100.90	Amicus Curiae
1100.100	Gender Usage
1100.105	Qualifications of Administrative Law Judges
1100.110	Conflict of Interest

AUTHORITY: Implementing and authorized by the Illinois Educational Labor Relations Act [115 ILCS 5].

SOURCE: Emergency rules adopted at 8 Ill. Reg. 8638, effective June 6, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 22548, effective November 5, 1984; amended at 14 Ill. Reg. 1270, effective January 5, 1990; amended at 26 Ill. Reg. 11472, effective July 23, 2002; emergency amendment at 28 Ill. Reg. 971, effective January 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1100.10 Definitions**

- a) The term "Act" shall mean the Illinois Educational Labor Relations Act [\[115 ILCS 5\]](#). ~~(Ill. Rev. Stat. 1987, ch. 48, par. 1701 et seq.)~~
- b) This Part incorporates the definitions contained in Section 2 of the Act.
- c) The term "incumbent employee organization" or "incumbent exclusive representative" shall mean the existing exclusive representative of the employees in the bargaining unit.

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- d) The term "charging party" shall mean the person who files an unfair labor practice charge.
- e) The term "respondent" shall mean the party named in an unfair labor practice charge or complaint as having allegedly committed the unfair labor practice.
- f) The term "scheduled start of the forthcoming school year" shall mean the first date scheduled for student attendance for that year.
- g) The term "professional instructional personnel" shall mean, in the case of a public school district, any employee whose position requires a certificate issued pursuant to Article 21 Section 21-1 et seq. of ~~the~~The School Code [105 ILCS 5/Art.21]. (~~Ill. Rev. Stat. 1987, ch. 122, par. 21-1 et seq.~~).
- h) The term "professional instructional personnel" shall mean in the case of an employer other than a public school district, any employee whose position includes or could include the provision of academic instruction to students.
- i) The term "legal holiday" shall mean a "legal school holiday" as specified in Sec. 24-2 of the School Code (not to include "special holidays" or "commemorative holidays"), or a holiday observed by the Board.
- j) The term "representation petition" shall include both a petition seeking recognition as exclusive representative through an election and a petition seeking recognition as exclusive representative through the Board's card check procedures (majority interest petition).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1100.20 Filing and Service of Documents**

- a) All documents relating to any proceeding before the Illinois Educational Labor Relations Board (the Board) shall be filed in either the Board's Springfield or Chicago office. The original and seven copies of each document shall be filed in all proceedings before the members of the Board; the original and three copies of each document shall be filed in any proceeding before a Hearing Officer. Except as otherwise specified in the rules of the Board, documents shall be considered filed with the Board on the date they are received by the Board or on the date they are postmarked if sent by registered or certified mail. Documents sent by any

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means other than registered or certified mail shall be considered filed on the date they are received by the Board, except that documents shall be considered filed on the date they are tendered to an overnight delivery service, if that service provides a receipt showing the date on which the documents were tendered for delivery. A party may file a document by facsimile if the party also sends a hard copy. A document filed by facsimile shall be considered filed with the Board on the date the Board receives the facsimile or the date the Board receives the hard copy of the document, whichever is first. Electronic filings may be permitted with the approval of the General Counsel in any proceeding before the members of the Board; with the approval of the Administrative Law Judge in any proceeding before an Administrative Law Judge; and with the approval of the Executive Director in any proceeding before the Executive Director.

- b) Whenever 80 Ill. Adm. Code: Subtitle C, Chapter III requires that a document be on a form developed by the Board, the document may be prepared on a form obtained from the Board or on a facsimile thereof. Minor deviations in the form of a document shall not be grounds for objecting to the document. Minor deviations are those deviations that involve form but not substance and thus do not prejudice any other party to the case.
- c) The Board will serve petitions, intervening claims and unfair labor practice charges on the appropriate parties by either personal service, registered or certified mail, or by leaving a copy at the principle office or place of business of the person required to be served.
- d) All documents, except those listed in subsection (c), ~~above~~, will be served on the appropriate parties by the party propounding the document, either by the methods listed in subsection (c), or by first class mail, or overnight delivery service. A document filed by facsimile or electronic means may be served by the same means as it is filed. When a party is represented in a proceeding before the Board, service shall be on the party's representative. When a party is not represented, service shall be on the party. Subpoenas will be served by the party requesting the subpoena, but in the manner provided in subsection (c) ~~above~~.
- e) Whenever a document is filed with the Board, it shall be accompanied by a certificate of service. A certificate of service shall consist of a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service. In the case of an e-mail, a signature on the certificate of service shall not be required.

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- f) Failure of a party to serve a document or failure to attach a certificate of service may be grounds to strike the document, if ~~thesaid~~ failure results in prejudice to another party (such as lack of notice or detrimental reliance) or demonstrates disregard of the Board's processes (such as continued noncompliance).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1100.70 Subpoenas**

- a) Subpoenas, including subpoenas duces tecum, shall be issued by the Board upon written application of a party to the Chief ~~Administrative Law Judge~~Hearing Officer. The application shall contain the name and address of the party and its representative, and the name of the person to be subpoenaed, and, where applicable, a description of any documents to be produced.
- b) A person objecting to the subpoena may file a motion to revoke the subpoena. Prior to the opening of a hearing, any motion to revoke a subpoena shall be filed with the ~~Administrative Law Judge~~Chief Hearing Officer. After the opening of a hearing, any motion to revoke a subpoena shall be filed with the hearing officer. The motion must be filed by the date on which the person is required to appear, and, in any event, no later than five days after service of the subpoena. Grounds for revocations of subpoenas shall include such factors as irrelevance, burdensomeness of compliance or privilege.
- c) Witnesses appearing at a hearing pursuant to subpoenas are entitled to the same fees and mileage as are allowed witnesses in civil cases in the courts of the State of Illinois, pursuant to Section ~~4.3 of the Circuit Courts Act [705 ILCS 35/4.3].47 of "AN ACT in relation to the compensation of Sheriffs, Coroners, County Treasurers, County Clerks, Recorders, and Auditors with their necessary clerk hire, stationery, fuel and other expenses, in counties less than 2,000,000 inhabitants" (Ill. Rev. Stat. 1987, ch. 53, par. 65)~~. Witness fees and mileage shall be paid by the party at whose request the subpoena was issued.
- d) A subpoena duces tecum shall specify the date for production of the documents. If the date so specified is other than at the hearing, the date specified for production shall be a date in advance of the hearing, which shall be no less than 10 days after the receipt of the subpoena by the person or entity to whom it is directed.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Hearing Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1105
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1105.10	Amendment
1105.20	Amendment
1105.50	Amendment
1105.80	Amendment
1105.100	Amendment
1105.140	Amendment
1105.160	Amendment
1105.180	Amendment
1105.210	Amendment
1105.220	Amendment
1105.230	New Section
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments provide for the Chief Administrative Judge to appoint hearing officers. These amendments provide for the filing of cross-exceptions. These amendments change the deadline for filing motions that would preclude a hearing. These amendments change the required content of a pre-hearing memorandum and the consequences of failure to disclose. These amendments provide for motions for production of documents. These amendments update the title of the Chief Administrative Law Judge. These amendments change “pre-trial memorandum” to “pre-hearing memorandum” in describing the consequences of failure to disclose. In addition, these amendments update statutory citations.
- 6) Will these amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these amendments contain incorporations by reference? Yes. The amendments provide for the calling of hostile or adverse witnesses as provided by 735 ILCS 5/2-1102.
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
  - C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

The full text of the proposed amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
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PART 1105  
HEARING PROCEDURES

SUBPART A: NON-ADVERSARIAL PROCEEDINGS

Section	
1105.10	General Statement of Purpose
1105.20	Setting of Representation Hearing
1105.30	Authority of Hearing Officer
1105.40	Rights of Parties
1105.50	Conduct of Hearing
1105.60	Admissible Evidence
1105.70	Official Notice
1105.80	Decisions and Exceptions

SUBPART B: CONTESTED CASES

Section	
1105.90	General Statement of Purpose
1105.100	Setting of Contested Case Hearing
1105.110	Parties
1105.120	Authority of Hearing Officer
1105.130	Requests for Documents (Repealed)
1105.140	Pre-Hearing Memorandum
1105.150	Rights of Parties
1105.160	Order of Hearing
1105.170	Conduct of Hearing
1105.180	Confidentiality
1105.190	Admissible Evidence
1105.200	Official Notice
1105.210	Examination of Hostile Party or Adverse Witness
1105.220	Decisions and Exceptions
<u>1105.230</u>	<u>Motions for Production of Documents</u>

AUTHORITY: Implementing and authorized by the Illinois Educational Labor Relations Act [115 ILCS 5].

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SOURCE: Adopted at 9 Ill. Reg. 9491, effective June 11, 1985; amended at 14 Ill. Reg. 1278, effective January 5, 1990; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: NON-ADVERSARIAL PROCEEDINGS

**Section 1105.10 General Statement of Purpose**

This Subpart details the procedures that will be followed in hearings that deal with issues related to the holding of an election, challenged ballots, amendment of certification or unit clarification, pursuant to Section 7 of the Illinois Educational Labor Relations Act [\[115 ILCS 5/7\]](#)~~(Ill. Rev. Stat. 1987, ch. 48, par. 1707)~~ ("the Act"), and 80 Ill. Adm. Code 1110.100.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.20 Setting of Representation Hearing**

- a) Where a representation petition has been filed and the Illinois Educational Labor Relations Board (the Board) has determined that the petition is supported by an adequate showing of interest and there is reasonable cause to believe that a question of representation exists pursuant to Section 7 of the Act and 80 Ill. Adm. Code 1110.100 a hearing shall be scheduled on any unresolved issues relating to the holding of an election. These issues include (but are not limited to) the scope of the bargaining unit, the exclusion of confidential, supervisory, or managerial employees as defined in the Act, or the existence of a bar to a petition or an election. Where the parties to a representation petition are able to agree to the holding of an election and enter into a consent agreement pursuant to 80 Ill. Adm. Code 1110.100, no hearing will be held.
- b) Where a petition to clarify an existing bargaining unit is filed pursuant to 80 Ill. Adm. Code 1110.160 and it presents unresolved issues of material fact, it shall be set for hearing. When the petition does not present unresolved issues of material fact, the Executive Director will rule on the petition without a hearing. A fact is material to the claim or defense in issue when the success of the claim or defense is dependent upon the existence of that fact.
- c) Where a petition to amend certification is filed pursuant to 80 Ill. Adm. Code 1110.170 and it presents unresolved issues of material fact, it shall be set for hearing. When the petition does not present unresolved issues of material fact, the Executive Director will rule on the petition without a hearing. A fact is material to

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the claim or defense in issue when the success of the claim or defense is dependent upon the existence of that fact.

- d) Whenever a challenged ballot is determinative of the results of an election, a hearing shall be set when the challenge presents unresolved questions of material fact. Issues shall include (but are not limited to) whether the challenged ballot shall be counted in the final tally of the election. When the challenge does not present unresolved questions of material fact, the Executive Director will rule on the challenge without a hearing.
- e) When such a hearing is necessary to resolve issues relating to the holding of an election, challenged ballots, amendment of certification or unit clarification, the ~~Chief Administrative Law Judge~~~~Executive Director~~ shall appoint a hearing officer and shall give at least seven days' notice to the parties. That notice shall include:
- 1) The name of the hearing officer;
  - 2) The nature, location, date, and time of the hearing;
  - 3) A statement of the legal authority and jurisdiction under which the hearing is to be held; and
  - 4) A reference to the particular section of the Act and the rules of the Board involved.
- f) Motions to intervene or participate in the hearing, motions for continuances, and motions to revoke or quash subpoenas shall be directed to the ~~hearing officer~~~~Hearing Officer~~, or, in the event that a ~~hearing officer~~~~Hearing Officer~~ has not been named, to the Chief ~~Administrative Law Judge~~~~Hearing Officer~~. All such motions or requests must be in writing, must state with specificity the reasons or grounds for the motion, and must be served on all parties simultaneously with their filing with the ~~hearing officer~~~~Hearing Officer~~ or Chief ~~Administrative Law Judge~~~~Hearing Officer~~.
- g) Unless otherwise provided in the rules of the Board governing specific types of proceedings, the briefing schedule for all motions shall be as follows:
- 1) Any supporting brief by the moving party shall be filed and served on all other parties simultaneously with the motion.

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- 2) Other parties shall have seven days to file a response and serve that response on all other parties simultaneously with the filing.
- 3) The parties must seek leave of the ~~hearing officer~~Hearing Officer to file any additional briefs. The ~~hearing officer~~Hearing Officer will allow the filing of additional briefs upon demonstration that material issues which could not have been anticipated have been raised.
- h) Motions for continuances will be granted only for good cause shown, such as the unavoidable absence of a person essential to the hearing, and only when the continuance will not unduly delay the hearings. The moving party shall state specifically in the motion the reasons that a continuance is being sought and shall state whether the moving party has discussed the motion with all other parties and whether any other party opposes the motion. If the moving party has based the motion on the existence of a conflicting commitment, the moving party must state that he or she has unsuccessfully attempted to change the conflicting date. If the unavailable person is a witness, the moving party shall state specifically why the evidence or testimony sought to be introduced through that witness cannot be introduced through another witness or other witnesses.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.50 Conduct of Hearing**

- a) All hearings under this Subpart shall be public.
- b) All witnesses shall be sworn.
- c) All testimony shall be recorded stenographically, or by other means which adequately preserve the record. The parties shall be responsible for obtaining their own copies of the transcript from the reporter. In the event that a party wishes to correct a transcription error in the transcript, the party shall notify the ~~hearing officer~~Hearing Officer in writing within seven days of receipt of the transcript and shall simultaneously serve a copy of that notification upon all other parties.
- d) A party tendering an exhibit for identification or admission into evidence shall be responsible for providing the original and three copies of the exhibit to the ~~hearing officer~~Hearing Officer and one copy to each other party at the time that the exhibit is tendered.

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- e) The hearing record in all contested cases shall include:
- 1) All petitions (excluding showing of interest submitted pursuant to 80 Ill. Adm. Code 1110), motions, briefs, exceptions, and rulings; or decisions by the ~~hearing officer~~Hearing Officer;
  - 2) All evidence received by the ~~hearing officer~~Hearing Officer;
  - 3) A statement of all matters of which official notice has been taken;
  - 4) Offers of proof, objections, and rulings thereon;
  - 5) Proposed findings of fact and conclusions of law; and
  - 6) Any ex parte communications prohibited by Section 10-60 of the Illinois Administrative Procedure Act [~~5 ILCS 100/10-60~~](Ill. Rev. Stat. 1991, ch. 127, par. 1010-60), but such communications shall not form the basis for any finding of fact.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.80 Decisions and Exceptions**

- a) The ~~hearing officer~~Hearing Officer shall issue a decision and give reasons for that decision in writing pursuant to the time limits established in 80 Ill. Adm. Code 1110.100(h) of the rules of the Board. Any findings of fact in this decision must be based exclusively upon the evidence in the record and on matters of which official notice has been taken.
- b) The parties may file exceptions to the ~~hearing officer's~~Hearing Officer's recommended decisions and briefs in support of those exceptions no later than fourteen days after receipt of the recommended decision. Those exceptions and briefs shall be filed with the General Counsel. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. Copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. The other parties shall have fourteen days from receipt of the exceptions and supporting brief to file a response with the General Counsel. Such response shall be served on all parties and a certificate of service shall be attached. A party may also file cross-exceptions and a supporting

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brief no later than 14 days from receipt of another party's exceptions and supporting brief. Those cross-exceptions and supporting brief shall be filed with the General Counsel. Copies of the cross-exceptions and supporting brief shall be served upon all other parties and a certificate of service shall be attached. The other parties shall have 14 days from receipt of the cross-exceptions and supporting brief to file a response with the General Counsel. Such response shall be served upon all parties and a certificate of service shall be attached. Parties shall file the original and seven copies of their exceptions, cross-exceptions and supporting brief or response with the General Counsel. The General Counsel shall provide the Board with copies of the exceptions, cross-exceptions, briefs, and the recommended decision.

- c) The Board shall review the hearing officer's~~Hearing Officer's~~ decision and any exceptions pursuant to 80 Ill. Adm. Code 1110.100(j) and will issue and serve upon all parties a written decision giving the Board's reasons for its determination. *An order of the Board dismissing a representation petition, determining and certifying that a labor organization has been fairly and freely chosen by a majority of employees in an appropriate bargaining unit, determining and certifying that a labor organization has not been fairly and freely chosen by a majority of employees in the bargaining unit or certifying a labor organization as the exclusive representative of employees in an appropriate bargaining unit because of a determination by the Board that the labor organization is the historical bargaining representative of employees in the bargaining unit, is a final order* (Section 7(d) of the Act). An order of the Board dismissing or granting a petition for clarification of an existing bargaining unit, or dismissing or granting an amendment of certification is a final order.
- d) If no exceptions have been filed within ~~14~~fourteen days after the parties' receipt of the Hearing Officer's decision, the parties will be deemed to have waived their exceptions.
- e) In cases removed to the Board pursuant to 80 Ill. Adm. Code 1110.100(e) of the Rules of the Board, the Board shall review the record and briefs submitted by the parties and shall issue and serve upon all parties a written decision and order. This decision and order shall include the Board's reasons for its decision.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: CONTESTED CASES

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**Section 1105.100 Setting of Contested Case Hearing**

- a) Where the Executive Director has issued a complaint on an unfair labor practice charge pursuant to Section 15 of the Act and 80 Ill. Adm. Code 1120.30 or a finding of probable cause with respect to an election objection pursuant to Section 8 of the Act and 80 Ill. Adm. Code 1110.150, a hearing shall be scheduled. Unfair labor practice charges and election objections having a common nucleus of operative facts shall be consolidated for purposes of hearing.
- b) Complaints will issue or probable cause will be found when the investigation has disclosed adequate credible statements, facts, or documents which, if substantiated, and not rebutted in a hearing, would constitute sufficient evidence to support a finding of a violation of the Act. Issuance of a complaint or finding of probable cause that objectionable conduct occurred by the Executive Director is not a decision that an unfair labor practice or objectionable conduct has in fact occurred.
- c) When such a hearing is necessary, the Chief ~~Administrative Law Judge~~Hearing Officer shall appoint a ~~hearing officer~~Hearing Officer. When the Executive Director issues a Complaint and Notice of Hearing, the parties shall be given at least seven days' notice of the hearing. That notice and the complaint or finding of probable cause shall include:
- 1) The name of the ~~hearing officer~~Hearing Officer;
  - 2) The location, date, and time of the hearing;
  - 3) A statement of the legal authority and jurisdiction under which the hearing is to be held;
  - 4) A reference to the particular section of the Act and the rules of the Board involved; and
  - 5) A brief statement of the nature of the matters at issue.
- d) Motions shall be directed to the ~~hearing officer~~Hearing Officer, or, in the event that a ~~hearing officer~~Hearing Officer has not been named, to the Chief ~~Administrative Law Judge~~Hearing Officer. All such motions or requests must be in writing, must state with specificity the reasons or grounds for the motion, and must be served on all parties simultaneously with their filing with the ~~hearing~~Hearing Officer.

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~~officer~~Hearing Officer or Chief ~~Administrative Law Judge~~Hearing Officer. Motions that would preclude a hearing, such as a motion to dismiss or to refer the matter to arbitration, should defer, must be filed with the Answer. However, such a motion may be filed at any time with the permission of the hearing officer or the Chief Administrative Law Judge. to be timely filed.

- e) Unless otherwise provided in the rules of the Board governing specific types of proceedings, the briefing schedule for all motions shall be as follows:
- 1) Any supporting brief by the moving party shall be filed and served on all other parties simultaneously with the motion.
  - 2) Other parties shall have seven days to file a response and serve that response on all other parties simultaneously with the filing.
  - 3) The parties must seek leave of the ~~hearing officer~~Hearing Officer to file any additional briefs. The ~~hearing officer~~Hearing Officer will allow the filing of additional briefs upon demonstration that material issues which could not have been anticipated have been raised.
- f) Motions for continuances will be granted only for good cause shown, such as the unavoidable absence of a person essential to the hearing, and only when the continuance will not unduly delay the hearing . The moving party shall state specifically in the motion the reasons that a continuance is being sought and shall state whether the moving party has discussed the motion with all other parties and whether any other party opposes. If the moving party has based the motion on the existence of a conflicting commitment, the moving party must state that he or she has unsuccessfully attempted to change the conflicting date. If the unavailable person is a witness, the moving party shall state specifically why the evidence or testimony sought to be introduced through that witness cannot be introduced through another witness or other witnesses.
- g) The Executive Director may amend the complaint prior to the hearing upon motion of a party or on the Executive Director's own motion. Grounds for amendment will include newly discovered evidence, inadvertent exclusions and new allegations. The parties shall receive reasonable notice of the amendment, and the Respondent shall have 15 days after the service of the amended complaint, unless waived by the Respondent, within which to file an answer to the amended complaint.

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(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.140 Pre-Hearing Memorandum**

- a) The parties shall each file written pre-hearing memoranda with the Hearing Officer not less than seven days before the hearing. The pre-hearing memoranda shall include:
- 1) A list of all exhibits to be offered by each party, and a statement that the parties have exchanged these exhibits;
  - 2) Objections to the authenticity of any of the exhibits tendered by all other parties, and the status of any of the exhibits as business records;
  - 3) A list of proposed witnesses, ~~and~~ an estimate of the time that will be required for the direct examination of those witnesses, and a summary of the matters to which they will testify;-
  - 4) A joint statement of the uncontested material facts.
- b) The parties may submit ~~a joint statement of the uncontested material facts, and~~ individual or joint statements of the contested material facts or contested issues of law with the required portions of the pre-hearing memoranda.
- c) The ~~hearing officer~~Hearing Officer, on his or her own motion, may waive the filing of the pre-hearing memorandum in whole or in part when he or she finds that such waiver is needed to avoid unnecessary delay of the hearing or an undue burden to a party.
- d) Failure by a party to disclose an exhibit or the identity of a witness ~~may~~shall be grounds for a motion by an opposing party or by the ~~hearing officer~~Hearing Officer for exclusion of that exhibit or witness where offered in a party's case-in-chief or, in the alternative, for a continuance to allow the opposing party time to review the exhibit or determine the nature of the witness' testimony and prepare to meet or counter such evidence. Such motions shall be granted only upon a showing that the moving party was surprised and placed at a disadvantage by the failure to disclose in the pre-~~hearing~~trial memorandum. Exhibits and witnesses not listed in the pre-hearing memorandum can be presented for rebuttal or impeachment purposes.

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(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.160 Order of Hearing**

- a) The following shall be the order of all contested case hearings, subject to modification by the ~~hearing officer~~Hearing Officer for good cause:
- 1) Presentation, argument, and disposition of motions preliminary to a hearing on the merits of the matters raised in the complaint;
  - 2) Presentation of opening statements;
  - 3) Complainant's case-in-chief;
  - 4) Respondent's case-in-chief;
  - 5) Complainant's case-in-rebuttal;
  - 6) Complainant's closing argument, which may include legal argument;
  - 7) Respondent's closing argument, which may include legal argument;
  - 8) Complainant's rebuttal argument, which may include legal argument;
  - 9) Presentation and argument of motions regarding removal of the case to the Board pursuant to 80 Ill. Adm. Code 1120.40, where applicable; and
  - 10) A schedule of submission of briefs to the ~~hearing officer~~Hearing Officer or Board pursuant to 80 Ill. Adm. Code 1120.40.
- b) The order of the contested case hearing will be modified by the ~~hearing officer~~Hearing Officer for good cause shown, such as upon motion of a party demonstrating that such modification is necessary because of the unavailability of a necessary witness or an attorney and that the moving party has not caused or contributed to such unavailability.
- c) The respondent may, at the close of the complainant's case, move for judgment in favor of the respondent. If the ruling on the motion is favorable to the respondent, an order dismissing the action shall be entered. If the ruling on the motion is adverse to the respondent, the respondent may proceed to adduce evidence in

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support of the respondent's defense.

- d) The hearing record in all contested cases shall include:
- 1) All pleadings (including all notices and responses thereto), motions, briefs, exceptions, and rulings, or decisions by the ~~hearing officer~~**Hearing Officer**;
  - 2) All evidence received by the ~~hearing officer~~**Hearing Officer**;
  - 3) A statement of all matters of which official notice has been taken;
  - 4) Offers of proof, objections, and rulings thereon;
  - 5) Proposed findings of fact and conclusions of law; and
  - 6) Any ex parte communications prohibited by Section 10-60 of the Illinois Administrative Procedure Act [~~5 ILCS 100/10-60~~](~~Ill. Rev. Stat. 1991, ch. 127, par. 1010-60~~), but such communications shall not form the basis for any finding of fact.
- e) Any findings of fact in decisions issued by the ~~hearing officer~~**Hearing Officer** or Board shall be based exclusively on the evidence in the Record and on matters of which official notice has been taken.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.180 Confidentiality**

- a) Except as provided in subsection (b) of this Section or in the Board's rules relating to the Freedom of Information Act [~~5 ILCS 140~~](~~Supp. to Ill. Rev. Stat. 1983, ch. 116, pars. 201 et seq.~~), no Board member or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board in any contested case proceeding held pursuant to the rules of the Board, whether in response to a subpoena duces tecum or otherwise, without the written consent of the Board. Nor shall any such person testify in behalf of any party in any such proceeding with respect to any information, facts, or other matter coming to his or her knowledge in his or her official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, whether in answer to a subpoena or otherwise, without the written consent of the Board. The Board

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will consent upon a demonstration of the absolute necessity of such documents or testimony to the case and the impossibility of obtaining the evidence sought from any other source.

- b) Notwithstanding the prohibitions of subsection (a) of this ~~Section~~section, after a witness called by the charging party or the respondent has testified in a hearing upon an unfair labor practice complaint, the ~~hearing officer~~Hearing Officer shall, upon motion of the opposing party, inspect in camera any statement (as hereinafter defined) of such witness in the possession of the Board. The ~~hearing officer~~Hearing Officer shall excise the portions of such statement which, although not relating to the subject matter of the testimony of the witness, do relate to other matters raised by the pleadings. With such material excised, the ~~hearing officer~~Hearing Officer shall then direct delivery of such statement to the parties for use on cross-examination and redirect. If, pursuant to such procedure, any portion of such statement is withheld from the parties and a party objects to such withholding, the entire text of such statement shall be preserved by the ~~hearing officer~~Hearing Officer, and, in the event a party files exceptions with the Board based upon such withholding, shall be made available to the Board for the purpose of determining the correctness of the ruling of the ~~hearing officer~~Hearing Officer. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the ~~hearing officer~~Hearing Officer shall order it to be delivered directly to the parties for examination and use for the purpose of cross-examination and redirect. The right to inspect any such statements shall be waived if the motion to have the ~~hearing officer~~Hearing Officer inspect and deliver the statement for use in cross-examination is not made before the witness is excused from the stand.
- c) The term "statement" as used in this Section means:
- 1) A written statement made by said witness and signed or otherwise adopted or approved by him; or
  - 2) A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the party obligated to produce the statement and recorded contemporaneously with the making of such oral statement.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1105.210 Examination of Hostile Party or Adverse Witness**

The parties to a hearing under this Subpart shall be entitled to call hostile or adverse witnesses as provided by Section 2-1102 of the Civil Practice Law [\[735 ILCS 5/2-1102\]](#) (~~Ill. Rev. Stat. 1983, ch. 110, par. 2-1102~~).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.220 Decisions and Exceptions**

- a) Pursuant to the procedures established in 80 Ill. Adm. Code 1120.40, the ~~hearing officer~~~~Hearing Officer~~ shall issue a recommended decision and give reasons for that decision or shall remove the case to the Board.
- b) In cases in which the ~~hearing officer~~~~Hearing Officer~~ issues a recommended decision, the parties may file exceptions to the ~~hearing officer's~~~~Hearing Officer's~~ recommended decision and briefs in support of those exceptions no later than twenty-one days after the receipt of the recommended decision. Those exceptions and briefs shall be filed with the General Counsel. Exceptions shall specify each finding of fact and conclusion of law to which exception is taken. Copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. The other parties shall have twenty-one days from receipt of the exceptions and supporting brief to file a response with the General Counsel. Such response shall be served on all parties and a certificate of service shall be attached. A party may also file cross-exceptions and a brief in support of those cross-exceptions no later than 14 days after receipt of another party's exceptions. Those cross-exceptions and briefs shall be filed with the General Counsel. Copies of all cross-exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. The other parties shall have 14 days from receipt of the cross-exceptions and supporting brief to file a response with the General Counsel. Such response shall be served on all parties and a certificate of service shall be attached. Parties shall file the original and seven copies of their exceptions, cross-exceptions and supporting brief or response with the General Counsel. The General Counsel shall provide the Board with copies of the exceptions, cross-exceptions, briefs, and the recommended decision.
- c) The Board shall review the Hearing Officer's decision and any exceptions pursuant to 80 Ill. Adm. Code 1120.50(b) and shall issue and serve upon all parties its decision and order. This written decision and order shall include the

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Board's reasons for its decision. This decision is a final decision for the purposes of the Administrative Review Law [735 ILCS 5/Art. III](Ill. Rev. Stat. 1987, ch. 110, pars. 3-101 et seq.).

- d) If no exceptions have been filed within ~~21~~twenty-one days after the parties' receipt of the ~~hearing officer's~~Hearing Officer's recommended decision, the parties will be deemed to have waived their exceptions.
- e) In cases removed to the Board pursuant to 80 Ill. Adm. Code 1120.40(f), the Board shall review the record and briefs submitted by the parties and shall issue and serve upon all parties a written decision and order. This written decision and order shall include the Board's reasons for its decision.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1105.230 Motions for Production of Documents**

- a) After a hearing has been scheduled, a party may file a written motion for the production of documents for inspection or copying. The motion shall be filed with the Administrative Law Judge and served upon all parties to the matter. The Administrative Law Judge may grant the motion for good cause shown. Motions for the production of documents shall be filed at least 15 days prior to the hearing and shall provide a reasonable period of time for producing the documents, which shall not be less than seven days and shall be prior to the hearing.
- b) The party from whom production is sought may serve upon the party moving for production and the Administrative Law Judge written objections to producing the documents on the ground that the motion is improper in whole or part. If objections are filed, production of the documents in dispute shall not be required until the objections are ruled upon. Copies of documents may be furnished in lieu of the originals.
- c) This Section does not preclude the use of a subpoena duces tecum requesting the production of documents from a person not a party.
- d) Time limits specified in this Section may be modified by an order of the Administrative Law Judge assigned to the case, or by the Chief Administrative Law Judge.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Representation Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1110
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1110.10	Amendment
1110.30	Amendment
1110.40	Amendment
1110.50	Amendment
1110.60	Amendment
1110.70	Amendment
1110.80	Amendment
1110.90	Amendment
1110.100	Amendment
1110.105	New Section
1110.120	Amendment
1110.140	Amendment
1110.160	Amendment
1110.180	Amendment
APPENDIX A	New Section
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments create procedures for the recognition of employee organizations as exclusive representatives by means of a card check. These amendments also create procedures for filing cross-exceptions to a hearing officer's recommended decision and order. These amendments modify voluntary recognition procedures to reflect the statutory amendment making voluntary recognition mandatory. These amendments clarify that an employer may consent to a representation election when another employee organization is the exclusive representative. These amendments specify the procedures that are to be followed when there are objections to a stipulated unit clarification petition. In addition, these amendments update a citation to the Illinois Educational Labor Relations Act.
- 6) Will these amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do this rulemaking contain incorporations by reference? No

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- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

These amendments, in part, were not included on either of the two most recent regulatory agendas because: What was not included were the changes to the voluntary recognition procedure to reflect the statutory amendment making voluntary recognition mandatory and the clarification that an employer may consent to a representation election when another employee organization is the exclusive representative. These changes were not included because they were assumed to be encompassed by the provision in the Board's January 2004 regulatory agenda regarding card check rules.

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The full text of the proposed amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARDPART 1110  
REPRESENTATION PROCEDURES

## Section

1110.10	General Statement of Purpose
1110.15	Investigations
1110.20	Employee Organizations Seeking Recognition
1110.30	Employer Responses to Recognition Requests
1110.40	Voluntary Recognition Procedures
1110.50	Representation Petitions
1110.60	Decertification Petitions
1110.70	Timeliness of Petitions and Bars to Elections
1110.80	Showing of Interest
1110.90	Posting of Notice
1110.100	Processing of Petitions <a href="#">Seeking an Election</a>
<a href="#">1110.105</a>	<a href="#">Processing of Majority Interest Petitions</a>
1110.110	Consent Elections
1110.120	Bargaining Unit Determinations
1110.130	Eligibility of Voters
1110.140	Conduct of the Election
1110.150	Objections to the Election
1110.160	Petitions for Clarification of the Bargaining Unit
1110.170	Petitions to Amend Certification
1110.180	Petitions for Self-Determination
<a href="#">1110.APPENDIX A</a>	<a href="#">Model Authorization Card</a>

AUTHORITY: Implementing and authorized by the Illinois Educational Labor Relations Act [115 ILCS 5].

SOURCE: Emergency rules adopted at 8 Ill. Reg. 4526, effective March 26, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 16300, effective August 27, 1984; amended at 14 Ill. Reg. 1297, effective January 5, 1990; emergency amendment at 28 Ill. Reg. 975, effective January 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1110.10 General Statement of Purpose**

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The regulations contained in this Part detail the procedures that employers, employees, and employee organizations should use for employer voluntary recognition of an employee organization and for instituting representation and related proceedings. These procedures are the exclusive means by which an educational employer may recognize an employee organization after the effective date of this Part if the bargaining relationship and any ensuing collective bargaining agreement are to be pursuant to the Illinois Educational Labor Relations Act ("the Act"); ~~[115 ILCS 5]Supp. to Ill. Rev. Stat. 1983, ch. 48, par. 1701 et. seq.~~, and subject to the processes of this Board.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.30 Employer Responses to Recognition Requests**

- a) An employer faced with a request for recognition in a bargaining unit that is not currently represented by an employee organization ~~may agree to resort to the voluntary recognition procedures, may consent to a representation election,~~ may file a representation petition with the Board, ~~or~~ may decline to respond to the request, or, if an election is sought, may consent to a representation election. Where the bargaining unit is not currently represented, the employer shall recognize an employee organization that seeks voluntary recognition if that organization appears to represent a majority of employees in the unit and if the voluntary recognition procedures specified in Section 1110.40 of this Part are followed.
- b) An employer faced with a request for recognition in a bargaining unit in which another employee organization has lawfully attained representation rights may file a representation petition with the Board, ~~or~~ may decline to respond to the request, or, if an election is sought, may consent to a representation election. The employer may not ~~agree to~~ resort to the voluntary recognition procedures in response to such a request.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.40 Voluntary Recognition Procedures**

- a) Voluntary recognition procedures may not be used under the following circumstances:
  - 1) whenever an employee organization has lawfully attained representation

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rights as the exclusive representative of the employees in the bargaining unit;

- 2) whenever there has been a valid representation election or a majority interest petition has been dismissed within the preceding 12~~twelve~~ months;
- 3) whenever the proposed bargaining unit would include both professional and nonprofessional employees.

b) An employee organization is not required to follow voluntary recognition procedures prior to employing card check procedures.

cb) Whenever a party intends to use the voluntary recognition procedures, the party shall notify the Board of its intent. The notification shall be on a form developed by the Board and shall include:

- 1) the name and address of the employer;
- 2) the name, address, and affiliation, if any, of the employee organization to be recognized;
- 3) a description of the proposed bargaining unit;
- 4) the approximate number of employees in the proposed bargaining unit;
- 5) the reasons why ~~the employer believes that~~ the employee organization appears to represent a majority of the employees;
- 6) the date on which the employer posted or intends to post the voluntary recognition notice; and
- 7) a copy of the voluntary recognition notice that has been or will be posted.

de) The employer must post the voluntary recognition notice on the date specified in the notification filed with the Board on bulletin boards and other places where notices for employees in the bargaining unit are customarily placed. The notice must be on a form developed by the Board, and must contain the following:

- 1) a statement that, subject to Board certification, the employer intends to

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recognize the employee organization if no competing claims of representation are filed with the Board;

- 2) the name and affiliation, if any, of the employee organization to be recognized;
- 3) a description of the proposed bargaining unit;
- 4) the date of posting; and
- 5) the date by which a competing claim of representation must be filed with the Board, which is the date that the posting period is scheduled to terminate.

ed) The notice shall remain posted for a period of at least 20 school days. For purposes of computing the 20-day period, a school day shall not include weekends, days on which holidays are recognized, or any day on which a significant portion of the regularly scheduled work force in the bargaining unit is not scheduled to work. The employer shall attempt to insure that the notice is not removed or defaced and shall replace any notice which is removed or defaced.

fe) During the posting period, any competing employee organization may file a petition with the Board. Prior to, or simultaneously with, its filing with the Board, the petition shall also be served on the employer and the employee organization that was to have been voluntarily recognized. The petition shall be on a form developed by the Board and shall contain:

- 1) the name, address, and affiliation, if any, of the employee organization;
- 2) the names of the employer and employee organization that the employer intends to voluntarily recognize;
- 3) a description of the proposed bargaining unit;
- 4) the date the voluntary recognition notice was posted; and
- 5) the date the posting period is scheduled to terminate.

gf) A competing employee organization's petition must be supported by a showing of interest by *at least 15 percent of the employees in an appropriate bargaining unit*

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*which includes all or some of the employees in the unit intended to be recognized (Section 7(b) of the Act).*

- hg)** Upon the filing of a competing employee organization's petition, the Board shall treat the notification of intent to use the voluntary recognition proceedings as a representation proceeding. The Board shall proceed in accordance with Section 7(c) of the Act and Sections 1110.90-1110.150 of this Part.
- ih)** If no competing employee organization petitions have been filed with the Board by the termination of the posting period, the ~~employee organization~~ employer shall file with the Board a request for voluntary recognition certification. In the alternative, the employer may file such a request. The request shall be on a form developed by the Board. The request shall be signed and shall contain the following:
- 1) the name and address of the employer;
  - 2) the name, address, and affiliation, if any, of the employee organization;
  - 3) a description of the proposed bargaining unit;
  - 4) the number of employees in the proposed bargaining unit;
  - 5) the dates and locations of the posting of the voluntary recognition notice;
  - 6) a statement that the notice was not removed or defaced during the posting period; and
  - 7) a statement describing why ~~the employer is satisfied that~~ the employee organization represents the majority of the employees in the bargaining unit.
- ji)** The petition must be supported by objective evidence that a majority of the employees in the bargaining unit wish to be represented by the employee organization.
- 1) If authorization cards are offered as evidence, those cards that would not qualify as evidence in support of a representation petition, pursuant to Section 1110.80(c) and (d) of this Part, will not be considered sufficient evidence of majority status.

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- 2) If employees signing such authorization cards have also signed cards authorizing other employee organizations to represent them, those cards will not be considered sufficient evidence of majority status.
- kj)** The Board will investigate the voluntary recognition request:
- 1) If the Board concludes that the employee organization represents a majority of the employees in the bargaining unit, and that the petition is otherwise consistent with the Act and this Part, the Board shall certify the employee organization as the exclusive representative of the employees.
  - 2) If the Board determines that there is insufficient evidence to support the claim of majority status, or that the petition otherwise contravenes the Act or this Part, the Board shall dismiss the petition without prejudice to the filing of a representation petition by either the employer or the employee organization. ~~k) If, at the end of the posting period, the employer is no longer satisfied that the employee organization has demonstrated majority status, the employer shall petition the Board to withdraw the voluntary recognition request. Such withdrawal shall be without prejudice to the filing of a representation petition by either the employer or the employee organization.~~

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.50 Representation Petitions**

- a) A representation petition may be filed by:
  - 1) an employee, a group of employees, or an employee organization; or
  - 2) an employer *alleging that one or more labor organizations have presented a claim to be recognized as an exclusive bargaining representative of a majority of the employees in an appropriate unit and that it doubts the majority status of any of the organizations or that it doubts the majority status of an exclusive representative* (Section 7(c)(2) of the Act).
- b) Representation petitions shall be signed by a representative of the petitioning party and shall contain:

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- 1) the name and address of the employer;
  - 2) the name, address, and affiliation, if any, of the employee organization;
  - 3) a description of the proposed bargaining unit which petitioner claims to be appropriate;
  - 4) the approximate number of employees in the proposed bargaining unit;
  - 5) the name of any existing exclusive representative of any employees in the proposed bargaining unit;
  - 6) a brief description of any collective bargaining agreements covering any employees in the proposed bargaining unit, and the expiration dates of the agreements;
  - 7) the date that the employer recognized any existing exclusive representative of any employees in the proposed bargaining unit, and the method of recognition;
  - 8) election and/or recognition history prior to January 1, 1984, to the extent known; ~~and~~
  - 9) a statement whether the petitioner intends to use the card check procedure or the election procedure;
  - 109) in the case of a petition filed by an employer, a statement that one or more employee organizations has demanded recognition and that the employer doubts either their majority status or the continued majority status of the existing representative.
- c) The Board shall serve the representation petition on the appropriate parties.
- 1) Employer petitions shall be served on the employee organizations that demanded recognition, and on the existing exclusive representative, if any.
  - 2) Employee and employee organization petitions shall be served on the employer and on the existing exclusive representative, if any.
- d) Employee and employee organization petitions seeking an election shall be

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accompanied by a showing of interest that at least 30 percent of the employees in the petitioned for bargaining unit wish to be represented by the employee organization. Employee and employee organization majority interest petitions shall be accompanied by a showing of a majority interest.

- e) A petition may seek joint representation by two or more employee organizations if an instrument, such as a joint council, has been established to effectuate the joint representation. In such instances, the petition shall describe the instrument.
- f) A petitioner may withdraw a its representation petition seeking an election as follows:
  - 1) If there are no intervenors, at any time prior to the direction of an election.
  - 2) If there are no intervenors, at any time after the direction of an election, but prior to the election. However, such withdrawal shall bar the petitioner from petitioning for an election or a card check in a bargaining unit covering all or part of the petitioned for unit for one year following the withdrawal.
  - 3) If there are intervenors, the employee organization may not withdraw its petition without the consent of all parties. However, the employee organization may file a statement signed by its authorized representative that it no longer wishes to appear on the ballot. The statement shall be filed no later than ten days prior to the election. Upon receipt of such a statement, the Board shall strike the employee organization's name from the ballot.
- g) A petitioner may withdraw a majority interest petition as follows:
  - 1) If there are no intervenors, at any time. However, if the petitioner withdraws the petition after the Board has determined that there is clear and convincing evidence of fraud or coercion in obtaining the showing of interest, such withdrawal shall bar the petitioner from filing a representation petition in a bargaining unit covering all or part of the petitioned for unit for one year following the withdrawal.
  - 2) If there are intervenors that meet the requirements of Section 1110.105(q) and Section 1110.80(b) of this Part, the employee organization may not withdraw its petition without the consent of all parties. However, the

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employee organization may file a statement signed by its authorized representative that it no longer wishes to appear on the ballot. The statement shall be filed no later than 10 days prior to the election. Upon receipt of such a statement, the Board shall strike the employee organization's name from the ballot.

- hg) Failure to complete the petition by listing all of the information contained in subsection (b) of this ~~Section~~ Part shall not be grounds for dismissal of the petition so long as the unlisted information is available from any other party. ~~A~~The petition seeking an election may be revised by the filing party at any time prior to a hearing or agreement to a consent election. A majority interest petition may be revised by the filing party within 21 days after service of the petition. Notice of any revision shall be served upon all other parties.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.60 Decertification Petitions**

- a) A petition to decertify an existing exclusive representative may be filed by an employee or group of employees. The Board shall serve the petition on the exclusive representative and on the employer. The petition shall be on a form developed by the Board. It shall be signed and shall contain the following:
- 1) the name and address of the petitioner;
  - 2) the name, address, and affiliation, if any, of the exclusive representative;
  - 3) the name and address of the employer;
  - 4) a description of the bargaining unit;
  - 5) the approximate number of employees in the bargaining unit;
  - 6) the date that the exclusive representative was recognized and the method of recognition, if known; and
  - 7) a brief description of any collective bargaining agreements covering any employees in the bargaining unit, and the expiration dates of the agreements.

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b) An employer shall not instigate or lend support to a decertification petition. Allegations that an employer has violated this subsection may be raised in motions to dismiss the decertification petition, objections to the decertification election, or unfair labor practice charges.

c) The card check procedure shall not be used to decertify an employee organization.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.70 Timeliness of Petitions and Bars to Elections**

a) Election bar: With respect to any bargaining unit, *no election may be conducted in a bargaining unit, or subdivision thereof, in which a valid election has been held within the preceding 12 month period* (Section 7(d) of the Act). However, representation and decertification petitions filed within the last three months of the 12 month period will be processed, and any resulting election or card check will be ~~conducted~~held after the 12 month period has elapsed. Representation and decertification petitions filed in the first 9 months of the 12 month period will be dismissed.

b) Certification bar: With respect to any bargaining unit, absent unusual circumstances the Board will dismiss a representation or decertification petition filed within 12 months following the date of Board certification of an exclusive representative for all or some of the employees in the bargaining unit, as a result of voluntary certification, card check or representation election. Unusual circumstances include when the exclusive representative dissolves or becomes defunct; when as a result of a schism, substantially all of the members and officers of the exclusive representative transfer their affiliation to a new local or international; or the size of the bargaining unit fluctuates radically within a short time.

c) With respect to petitions with proposed bargaining units containing professional instructional personnel, representation and decertification petitions may not be filed whenever there is in effect a collective bargaining agreement of three years or shorter duration covering all or some of the employees in the bargaining unit. Collective bargaining agreements of longer than three years duration shall serve as a bar for the first three years of their existence. In all cases, representation and decertification petitions may be filed between January 15 and March 1 of the year in which the collective bargaining agreement is due to expire or in the third year of an agreement of more than three years duration. However, no such petition

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may be filed if it would otherwise be barred by subsections (a) or (b) of this Section.

- d) With respect to petitions with proposed bargaining units not containing professional instructional personnel, representation and decertification petitions may not be filed whenever there is in effect a collective bargaining agreement of three years or shorter duration covering all or some of the employees in the bargaining unit. Collective bargaining agreements of longer than three years duration shall serve as a bar for the first three years of their existence. In all cases, representation and decertification petitions may be filed between 90 days and 45 days prior to the expiration date of a collective bargaining agreement of three years duration or less, or any time after 90 days prior to the end of the third year of an agreement of more than three years duration.
- e) A collective bargaining agreement shall not bar the filing of a representation or decertification petition if the agreement is between an employer and an employee organization recognized by the employer after the effective date of this Part without having used the voluntary recognition, card check or representation election procedures specified in the Act and this Part.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.80 Showing of Interest**

- a) Representation petitions filed by employees, groups of employees and employee organizations; that seek an election and all decertification petitions must be accompanied by a 30 percent showing of interest. Majority interest petitions must be accompanied by a showing of majority interest.
- 1) The showing of interest in support of a representation petition seeking an election shall consist of authorization cards, petitions, or other evidence which demonstrates that at least 30 percent of the employees in the proposed bargaining unit desire to be represented for collective bargaining by the petitioned for employee organization.
  - 2) The showing of interest in support of a decertification petition shall consist only of cards or petitions clearly stating that the employee does not want the incumbent employee organization to continue serving as exclusive representative.

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- 3) The showing of interest in support of a majority interest petition shall consist of current dues deduction authorizations, authorization cards, petitions, or other evidence that demonstrates that more than 50 percent of the employees wish to be represented for collective bargaining by the petitioned for employee organization. An authorization card including the information in Appendix A of this Part shall be considered sufficient to support a showing of majority interest.
- b) A petition to intervene in an election or card check must be supported by a 15 percent showing of interest when the petition proposes a bargaining unit substantially similar to the originally proposed unit. In the case of a majority interest petition, the requirements of Section 1110.105(q) of this Part also apply. When the intervenor proposes a bargaining unit substantially different from the originally proposed unit, the petition must be supported by a 30 percent showing of interest in the case of a petition seeking an election and a showing of majority interest in the case of a majority interest petition. In determining whether the proposed bargaining units are substantially similar, the Board will consider the number and type of employees in each of the proposed units. The proposed units will not be considered substantially similar whenever less than 50 percent of the employees in the originally proposed unit are included in the unit proposed by the intervenor. An incumbent exclusive representative shall automatically be allowed to intervene without submitting any showing of interest.
- c) If authorization cards or petitions are submitted as a showing of interest, each signature appearing thereon should be dated by the employee.
- d) Each signature appearing on an authorization card or petition shall be effective for six months from the date it was given.
- e) In the case of a petition seeking an election, whenever~~Whenever~~ an employee has signed authorization cards or petitions for two or more employee organizations, each card or petition shall be counted in computing the required showing of interest. In the case of a majority interest petition, whenever an employee has signed authorization cards or petitions for two or more employee organizations, neither card or signature on a petition shall be counted in computing the required showing of interest.
- f) The Board shall maintain the confidentiality of the showing of interest. The evidence submitted in support of the showing of interest shall not be furnished to any of the parties.

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- g) The Executive Director will determine whether the evidence submitted demonstrates the appropriate level of showing of interest pursuant to subsections (a) and (b) ~~of this section~~. Except as provided in Section 1110.105 of this Part, theThe showing of interest shall not be subject to collateral attack and shall not be an issue at hearing. However, any person who has evidence that the showing of interest was fraudulent or was obtained through misrepresentation or coercion may bring the evidence to the attention of the Board's agent investigating the petition.
- h) If the Executive Director determines that the evidence submitted does not demonstrate the appropriate level of showing of interest, the petitioner or intervenor shall have 48 hours to provide the necessary showing of interest to the Executive Director, subject to the provisions of Section 1110.105(p) of this Part. If the petitioner or intervenor is unable to present any necessary additional evidence of showing of interest within that time, then the petition shall be subject to dismissal.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.90 Posting of Notice**

Following the filing of a representation or decertification petition, the Board shall provide the employer with a notice ~~that~~which shall be immediately posted on bulletin boards and other places where notices for employees in the bargaining unit are customarily posted, or in conspicuous places in the absence of a customary posting location.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.100 Processing of Petitions Seeking an Election**

- a) All parties served with a representation petition seeking an election or a decertification petition shall respond to the petition within seven days ~~after~~of service. The response shall set forth the party's position with respect to the matters asserted in the petition, including, but not limited to, the appropriateness of the bargaining unit. A party that fails to file a timely response without good cause shall be deemed to have waived its right to a hearing. Good cause will include when there is no prejudice to another party or the other parties have consented to a hearing without the filing of a timely response.

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- b) Upon receipt of the petition, the Board or its agent shall investigate the petition. If the investigation discloses that *there is no reasonable cause to suspect that a question of representation exists*, as defined in Section 7(c)(1) or (2) of the Act, the petition will be dismissed; provided that, the dismissal may be appealed within ~~14~~**fourteen** days to the Board. If the investigation discloses that *there is reasonable cause to suspect that a question of representation exists*, as defined in Section 7(c)(1) or (2) of the Act, the matter will be set for hearing before a hearing officer. All parties shall be given a minimum of seven days notice of the hearing.
- c) Petitions to intervene may be filed with the Board no later than 14 days prior to the date set for the election. Any intervenor who files after the date set for hearing, or if no hearing is held, after the approval of a consent election agreement or the direction of an election pursuant to subsection (j) of this Section, shall have waived objections to the bargaining unit.
- d) Interested persons who wish to participate in the hearing shall direct such requests to the hearing officer. The request shall be in writing and shall state the grounds for participation. In determining whether to grant the request, the hearing officer shall base his decision on the timeliness of the request, the degree to which the person requesting participation has a real interest at stake, the ability of the parties to represent the interests of the person requesting participation and the complexity of the proceeding.
- e) The hearing officer shall obtain a full and complete record by inquiring into all matters in dispute. The record shall be obtained either by evidentiary hearing or stipulation. Immediately prior to the close of the record, one or more parties may file motions to remove the case to the Board for decision. Responses to these motions may be filed as directed by the hearing officer. Within seven days after the close of the record, the hearing officer shall rule on the motions. The hearing officer may also order the case removed to the Board on his own motion within seven days after the close of the record. If the hearing officer orders a case removed, he shall certify that there are no determinative issues of fact that require a hearing officer's recommended decision.
- f) Within seven days after removal, a party may move the Board to remand the case to the hearing officer, identifying in detail the material factual issues in dispute. If the Board fails to rule on the motion within 14 days, the motion will be deemed denied; the General Counsel will set a briefing schedule for briefs to be submitted to the Board. In cases removed to the Board, the Board shall remand the case if,

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at any time, it determines that the case presents issues of material fact requiring a hearing officer's recommended decision.

- g) In cases not removed to the Board and in cases remanded to the hearing officer, the hearing officer shall file and serve on the parties a recommended decision within 21 days after the conclusion of the presentation of evidence, the receipt of the transcript, and the receipt of any post-hearing briefs, unless additional time is required due to the length of the record and the complexity of the issues involved. Such additional time shall not exceed 90 days.
- h) Parties may file exceptions to the hearing officer's recommendation and briefs in support of those exceptions no later than ~~14~~fourteen days after receipt of the recommendation. Any party to the proceeding may file a response to any exceptions and supporting briefs within ~~14~~fourteen days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. If no exceptions have been filed within the ~~14~~fourteen-day period, the parties will be deemed to have waived their exceptions. A party may also file cross-exceptions and a supporting brief within 14 days from receipt of another party's exceptions and supporting brief. Copies of the cross-exceptions and supporting brief shall be filed with the Board and served on all parties. Any other party may file a response to the cross-exceptions and supporting brief within 14 days from receipt of the cross-exceptions and supporting brief. Such response shall be filed with the Board and served upon all parties. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.
- i) The Board will review the hearing officer's recommendation upon request by a party or on its own motion. If the Board determines that a question concerning representation exists, as defined in Section 7(c)(1) or (2) of the Act, the Board shall direct that an election be held and a notice of election be posted. An election shall not be held on a date on which a substantial portion of the regularly scheduled work force in the bargaining unit is not scheduled to work.
- j) Within seven days following the direction of an election, the employer shall furnish all other parties and the Executive Director with a list of the names and addresses of the employees eligible to vote in the election.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.105 Processing of Majority Interest Petitions**

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- a) Majority interest procedures may not be used when another employee organization has lawfully attained representation rights as the exclusive representative of the employees in the bargaining unit.
- b) The employer shall provide to the Board and the employee organization a list of employees as of the date of the petition within seven days after receipt of the petition, unless more time is granted by the Board due to the size of the unit.
- c) Upon request of the Board, the employer shall provide to the Board and to the employee organization examples of the employees' signatures within 14 days after the Board's request, unless more time is granted by the Board due to the size of the unit. If the employer does not provide the list of employees or the signature examples within the allotted time, the Board shall administratively determine the adequacy of the showing of interest, based upon the evidence submitted by the employee organization. A grant of more time to provide a list of employees or signature examples shall, if necessary, extend the time limitation for certifying an employee organization as exclusive representative.
- d) Within 21 days after receipt of the petition, parties served with the petition shall file a written response to the petition. The response shall set forth the party's position with respect to the appropriateness of the unit, any proposed exclusions from the unit, any allegations of fraud or coercion in obtaining the showing of interest, and any other issues raised by the petition. A party that fails to file a timely response without good cause shall be deemed to have waived its right to a hearing. Good cause will include when there is no prejudice to another party or the other parties have consented to a hearing without the filing of a timely response.
- e) Upon receipt of the petition, the Board or its agent shall investigate the petition. The Board shall certify the employee organization as the exclusive representative within 30 days after service of the petition if:
  - 1) the Board concludes that the employee organization represents a majority of the employees in the bargaining unit;
  - 2) there are no issues of fraud or coercion in obtaining the showing of interest;
  - 3) the petition is otherwise consistent with the Act and with this Part; and

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- 4) either there are no unit appropriateness or exclusion issues or the number of contested positions or employees is not sufficient to affect the determination of majority status.
- f) Where fraud or coercion in obtaining the showing of interest is alleged, the party or employee alleging fraud or coercion must provide its evidence of fraud or coercion to the Board and to the other parties, including a synopsis of any affidavits submitted to the Board, within 21 days after receipt of the petition or the posting of notice, unless additional time is granted by the Executive Director for good cause shown. The petitioner may file a response no later than seven days following the receipt of that evidence, unless additional time is granted by the Executive Director for good cause shown. The Executive Director shall issue his decision within 21 days following the receipt of the petitioner's response.
- g) The employee who alleges fraud or coercion or the parties may file exceptions to the Executive Director's decision and briefs supporting those exceptions no later than seven days after receipt of that decision, and a response to those exceptions may be filed no later than seven days after receipt of such exceptions and briefs. The Board shall issue its decision no later than 60 days from the date that the last brief must be filed. If no exceptions are filed within the seven-day period, the parties and any employee who alleges fraud or coercion will be deemed to have waived their exceptions.
- h) If the Executive Director determines that there is clear and convincing evidence of fraud or coercion sufficient to affect the majority status of the petition and no exceptions are filed to that determination, or if the Board makes such a determination, an election will be conducted according to the procedures set forth in this Part. The election shall be conducted within 45 days after the Executive Director's or the Board's determination, unless proceedings concerning the appropriateness of the unit, exclusions from the unit sufficient to affect majority status, or the timeliness of the petition are pending.
- i) If the Executive Director determines that there is not clear and convincing evidence of fraud or coercion sufficient to affect the majority status of the petition and no exceptions are filed to that determination, or if the Board makes such a determination, the Board shall certify the employee organization as the exclusive representative if:

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- 1) the Board concludes that the employee organization represents a majority of the employees in the bargaining unit;
  - 2) the petition is otherwise consistent with the Act and with this Part; and
  - 3) there are no unit appropriateness or exclusion issues, those issues have been resolved, or the number of contested positions or employees is not sufficient to affect the determination of majority status. The certification shall be issued immediately upon issuance of the Board's determination or within 10 days after service of an unappealed Executive Director's decision.
- j) If there are unit appropriateness or exclusion issues, but the number of contested positions or employees is not sufficient to affect the determination of majority status, a party may invoke the Board's unit clarification procedures.
- k) If there are unit appropriateness or exclusion issues, and the number of contested positions or employees is sufficient to affect the determination of majority status, a hearing shall be conducted to resolve these issues. A hearing shall also be conducted when there are issues of material fact concerning the timeliness of the petition under Section 1110.70 of this Part. The hearing shall commence no later than 30 days from service of the petition. The Board shall proceed in accordance with 80 Ill. Adm. Code 1105.10-1105.80, except that:
- 1) The hearing officer's recommended decision shall be issued not later than 21 days after the conclusion of the presentation of evidence, the receipt of the transcript, and the receipt of any post-hearing briefs, unless additional time (not to exceed 21 days) is required due to the length of the record or the complexity of the issues involved.
  - 2) The parties may file exceptions to the recommended decision and briefs in support of those exceptions no later than seven days after receipt of the decision. Any party to the proceeding may file a response to any exceptions and supporting briefs within seven days from receipt of a party's exceptions and supporting brief. Exceptions and briefs shall be simultaneously filed with the Board and served on the parties. A party may also file cross-exceptions and a supporting brief within seven days from receipt of another party's exceptions and supporting brief. Any other party may file a response to the cross-exceptions and supporting brief within seven days from receipt of the cross-exceptions and supporting

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brief. Cross-exceptions and briefs shall be simultaneously filed with the Board and served on the parties. The Board shall issue its decision no later than 60 days from the date that the last brief must be filed. If no exceptions have been filed within seven days after service of the hearing officer's recommended decision, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within seven days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.

- l) Interested persons who wish to participate in the hearing shall direct such requests to the hearing officer. The request shall be in writing and shall state the grounds for participation. In determining whether to grant the request, the hearing officer shall base his decision on the timeliness of the request, the degree to which the person requesting participation has a real interest at stake, the ability of the parties to represent the interests of the person requesting participation and the complexity of the proceeding.
- m) The hearing officer shall obtain a full and complete record by inquiring into all matters in dispute. The record shall be obtained either by evidentiary hearing or stipulation. Immediately prior to the close of the record, one or more parties may file motions to remove the case to the Board for decision. Responses to these motions may be filed as directed by the hearing officer. Within seven days after the close of the record, the hearing officer shall rule on the motions. The hearing officer may also order the case removed to the Board on his own motion within seven days after the close of the record. If the hearing officer orders a case removed, he shall certify that there are no determinative issues of fact that require a hearing officer's recommended decision.
- n) Within seven days after removal, a party may move the Board to remand the case to the hearing officer, identifying in detail the material factual issues in dispute. If the Board fails to rule on the motion within 14 days, the motion will be deemed denied; the General Counsel will set a briefing schedule for briefs to be submitted to the Board. In cases removed to the Board, the Board shall remand the case if, at any time, it determines that the case presents issues of material fact requiring a hearing officer's recommended decision.
- o) The Board shall certify the employee organization as exclusive representative immediately upon issuance of the Board's opinion and order, or upon expiration of the time for filing exceptions to the hearing officer's recommended decision, if:

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- 1) the bargaining unit found to be appropriate by the Board is sufficiently similar to the petitioned for bargaining unit that the showing of majority interest remains sufficient;
  - 2) the employee organization agrees to represent the bargaining unit found to be appropriate;
  - 3) the Board concludes that the employee organization represents a majority of the employees in the bargaining unit;
  - 4) there is not clear and convincing evidence of fraud or coercion in obtaining the showing of interest; and
  - 5) the petition is otherwise consistent with the Act and this Part.
- p) If the bargaining unit approved by the Board is not sufficiently similar to the petitioned for bargaining unit that the showing of majority interest remains sufficient, the petitioner may submit a supplemental showing of interest within seven days after receipt of the Board's ruling, may participate in an election according to subsection (r), or may withdraw the petition.
- q) Petitions to intervene may be filed no later than 14 days after the notice is posted. Intervention shall only be allowed when, as a result of the evidence submitted by the intervenor in support of its showing of interest, the original petitioner no longer has a valid showing of majority interest.
- r) If the valid evidence presented by the employee organization to support its claim of majority status does not constitute a majority showing of interest, but demonstrates that at least 30 percent of the employees in the unit found appropriate desire to be represented for collective bargaining by the employee organization, the Board shall conduct an election in the unit found appropriate if the petition is otherwise consistent with the Act and this Part.
- s) Upon the filing of a petition or at any time thereafter that the case is pending, a party may allege that *the dues deduction authorizations and other evidence submitted in support of a designation of representative without an election were subsequently changed, altered, withdrawn, or withheld as a result of employer fraud, coercion, or any other unfair labor practice by the employer* (Section 7(c-5) of the Act). The party must submit its evidence in support of the allegation at the time that it makes the allegation, unless additional time is granted by the

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Executive Director for good cause shown. Any other party may submit its response to the allegation no later than seven days from receipt of the submission of the party making the allegation, unless additional time is granted by the Executive Director for good cause shown. The Board or its agent shall investigate the allegation. If the Executive Director finds that there is an issue of law or fact that such conduct occurred, the matter shall be set for hearing. The hearing shall be conducted according to the Board's procedures for contested case hearings (80 Ill. Adm. Code 1105.90-1105.220), except that:

- 1) The Administrative Law Judge's recommended decision shall be issued no later than 21 days after the conclusion of the presentation of evidence, the receipt of the transcript, and the receipt of any post-hearing briefs, unless additional time (not to exceed 21 days) is required due to the length of the record or the complexity of the issues involved.
- 2) The parties may file exceptions to the recommended decision and briefs in support of those exceptions no later than seven days after receipt of the decision. Any other party may file a response to the exceptions and briefs no later than seven days after receipt of those exceptions and briefs. Exceptions and briefs shall be simultaneously filed with the Board and served on the parties. A party may also file cross-exceptions and a supporting brief within seven days from receipt of another party's exceptions and supporting brief. Any other party may file a response to the cross-exceptions and supporting brief no later than seven days from receipt of the cross-exceptions and supporting brief. Cross-exceptions and briefs shall be simultaneously filed with the Board and served on the parties. The Board shall issue its decision within 60 days from the date that the last brief was due.
- t) If the Administrative Law Judge, or the Board on review, determines that a labor organization would have had a majority interest but for an employer's fraud, coercion, or unfair labor practice, it shall designate the labor organization as an exclusive representative without conducting an election (Section 7(c-5) of the Act).
- u) In order for an employee's dues deduction authorization, authorization card, signature on a petition or other evidence to be counted in determining whether an employee organization has demonstrated a majority interest, the employee must be in the bargaining unit on the date the petition was filed.

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- v) In cases where the proposed unit includes professional and nonprofessional employees, the Board will determine majority status separately for each group. If the employee organization has demonstrated majority status for each group, the Board will conduct a vote to determine whether a majority of each group desires a combined unit. If the majority does not vote for a combined unit, the Board will issue separate certifications for the resulting units.
- w) In cases where the proposed unit includes craft and non-craft employees, the Board will determine majority status separately for each group. If the employee organization has demonstrated majority status for each group, the Board will conduct a vote to determine whether a majority of the craft employees desire a combined unit. If the majority of the craft employees does not vote for a combined unit, the Board will issue separate certifications for the resulting units.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.120 Bargaining Unit Determinations**

- a) In determining the appropriateness of a unit for purposes of collective bargaining, the Board shall consider all relevant factors, including, *but not limited to, such factors as historical pattern of recognition, community of interest, including employee skills and functions, degree of functional integration, interchangeability and contact among employees, common supervision, wages, hours, and other working conditions of the employees involved, and the desires of the employees* (Section 7(a) of the Act).
- b) In cases where employees have historically been represented by employee organizations for purposes of collective bargaining, such historical pattern of recognition will not be negated or interfered with unless a majority of the employees so represented express a contrary desire under the procedures set forth in the Act and this Part.
- c) Any party seeking to represent a bargaining unit limited to employees of a craft shall submit a representation petition or intervening claim pursuant to Section 7(a) of the Act supported by a 30 percent showing of interest within the craft in the case of a petition seeking an election and a showing of a majority interest within the craft in the case of a majority interest petition. Whenever a party has so intervened, the Board shall proceed in accordance with Section 1110.105(w) in the case of a majority interest petition, and the election shall proceed in accordance with Section 1110.140(f) in the case of a petition seeking an election

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~~of this Part.~~

- d) Whenever a petition is filed alleging a bargaining unit that includes professional and nonprofessional employees, the petition shall so state. In the case of a majority interest petition, the Board shall proceed in accordance with Section 1110.105(v) of this Part. In the case of a petition seeking an election, the~~The~~ election shall be conducted in accordance with Section 1110.140(g) of this Part.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.140 Conduct of the Election**

- a) The election shall be conducted under the supervision of the Board. Voting shall be by secret ballot.
- b) Absentee ballots will be allowed only where an individual submits a written request to the Board no later than ~~10~~<sup>ten</sup> days prior to the election and demonstrates in that request that he is not able to be physically present at the polling place at the time for which the election is scheduled and therefore would be unable to cast a ballot. The request must set forth the factual basis for the claim. Mere inconvenience to the individual shall not be cause for the issuance of an absentee ballot.
- c) Each party shall be entitled to an equal number of observers as determined by the Board or its agent. The number of observers allowed shall be based on the number of polling locations and the number of eligible voters. The identity and conduct of observers are subject to such limitations as the Board or its agent shall prescribe in order to insure that voters are free from interference, coercion, or intimidation.
- d) The Board's agent is authorized to prescribe the area in proximity to the polling place in which electioneering shall be prohibited. The specified area shall be based on the size and nature of the specific polling place.
- e) Ballots shall list all employee organizations that properly petitioned or intervened in the election, the incumbent exclusive representative, and the choice of "No Representative".
- f) Where an election involves a bargaining unit that includes craft employees, and there has been a proper petition for a separate craft unit, craft employees shall be

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given two ballots: one to vote for or against craft severance and a second to vote on choice of representative. Noncraft employees shall only be given ballots for voting on choice of representative.

- g) Where an election involves a bargaining unit containing professional and nonprofessional employees, all employees shall be given two ballots: one for indicating whether they desire a combined professional-nonprofessional unit and a second for indicating choice of representative, except as provided for in Section 1110.105(v) of this Part.
- h) Ballot boxes shall be examined in the presence of the observers immediately prior to the opening of the polls and shall be sealed at the opening of the polls. The seal shall allow for one opening on the top of the ballot box for voters to insert their ballots.
- i) The Board's agent or any authorized observer may question the identity of any voter. A voter whose identity has been questioned may establish his identity by showing a driver's license or any other equally reliable piece of identification. Challenged voters shall be permitted to vote in secret with their ballots set aside by the Board's agent with appropriate markings.
- j) A voter shall mark a cross (X) or check(☐) in the circle or block designating his choice in the election. The intent of the voter shall be followed in the marking of the ballot. If the ballot is defaced, torn, marked in such a manner that it is not understandable, or identifies the voter, the ballot shall be declared void. If the voter inadvertently spoils a ballot, he may return it to the Board's agent who shall give the voter another ballot and shall preserve the spoiled ballot.
- k) A voter shall fold his ballot so that no part of its face is exposed and, on leaving the voting booth, shall deposit the ballot in the ballot box. If the election is continued for more than one period, the ballot box shall be sealed until the subsequent opening of the polls and shall remain in the custody of the Board's agent until the counting of the ballots.
- l) The Board's agent may privately assist any voter who, due to physical or other disability, is unable to mark his ballot.
- m) Prior to the close of the polls, each party shall designate a representative to observe the tallying of the ballots.

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- n) Immediately upon the conclusion of the polling, the votes shall be tallied as follows:
- 1) The Board's agent shall attempt to achieve a voluntary resolution of all ballot challenges before the ballots are counted.
  - 2) If there was only one polling location, the Board's agent shall tally the votes in the presence of a representative designated by each party and shall serve a written tally on each of the representatives.
  - 3) If there was more than one polling location, the Board's agent shall seal the ballot boxes and bring them to a predetermined central location. When all the ballot boxes have arrived, they shall be opened, the ballots shall be commingled, and the votes shall be tallied in the presence of a representative designated by each party. The Board's agent shall serve a written tally on each of the representatives.
  - 4) The Board's agent shall count the number of challenged ballots separately. If the challenged ballots cannot affect the outcome of the election, the challenges will not be resolved. If the challenged ballots could affect the outcome of the election, the Board's agent shall again attempt to achieve a voluntary resolution of all the challenges.
  - 5) If challenges to ballots have not been resolved, and if the challenges could affect the outcome of the election, the challenged ballots shall be investigated by the Executive Director, who shall issue a recommended decision concerning the application of Sections 2, 7, 8 and 9 of the Act and this Part to the challenged ballots. Parties may file exceptions to the Executive Director's recommendation and briefs in support of those exceptions no later than 14 days after receipt of the recommendation. Copies of all exceptions and briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. If no exceptions have been filed within the 14 day period, the parties will be deemed to have waived their exceptions. The Board will review the Executive Director's recommendation upon request by a party or on its own motion.
  - 6) When the election includes a vote on craft severance, the craft employee

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ballots on craft severance shall be tallied first. If a majority of the craft employees casting valid ballots choose craft severance, the craft and noncraft ballots on choice of representative shall be tallied separately. If a majority of the craft employees casting valid ballots do not choose craft severance, the ballots on choice of representative shall be tallied together.

- 7) When the election includes a vote on a combined professional-nonprofessional unit, the ballots on unit preference shall be tallied first. Separate tallies shall be made for professional and nonprofessional employees.
- 8) If a majority of the employees casting valid ballots in each group vote for a combined unit, the ballots on choice of representative shall be tallied together. If a combined unit fails to receive a majority vote in either or both groups, the ballots on choice of representative shall be tallied separately.
- o) In all cases, the recipient of a majority of the valid ballots cast by those voting shall prevail.
- p) When there are three or more choices on the ballot (two or more employee organizations and "No Representative") and no choice receives a majority, the Board shall conduct a runoff election between the two choices that received the most votes. The results of votes taken during the first election on craft severance and combined professional-nonprofessional units shall be binding on the runoff election.
- q) Where there are three or more choices on the ballot, and either the vote is split equally among all of the choices, or there is a tie for second place, the Board shall declare the election inconclusive and shall order a new election. The results of the craft severance and combined professional-nonprofessional unit votes in the first election shall be binding on the rerun election.
- r) The Board shall preserve all ballots until such time as any objections to the election have been resolved and the results have been certified and served on the parties.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.160 Petitions for Clarification of the Bargaining Unit**

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- a) An exclusive representative or an employer may file a petition to clarify an existing bargaining unit. The Board shall serve the petition on the other party. The petition shall be signed and shall contain the following:
  - 1) the name and address of the employer;
  - 2) the name, address, and affiliation, if any, of the exclusive representative;
  - 3) a description of the existing bargaining unit; and
  - 4) the nature of the proposed clarification and the reasons therefor.
- b) The exclusive representative or employer may file an answer to the petition within 14 days following service of the petition. Failure to answer without good cause shall be deemed a waiver of objections to the petition and a waiver of a hearing. Good cause will include when there is no prejudice to another party or the other parties have consented to a hearing without the filing of a timely answer.
- c) The Executive Director or his agent shall investigate the petition and, if the petition does not present unresolved questions of material fact, the Executive Director shall then issue a Recommended Decision and Order. Parties may file exceptions to the Executive Director's recommendation and briefs in support of those exceptions no later than 14 days after receipt of the recommendation. Copies of all exceptions and briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. If no exceptions have been filed within the 14 day period, the parties will be deemed to have waived their exceptions. The Board will review the Executive Director's recommendation upon request by a party or on its own motion. If the petition presents unresolved questions of material fact, the Executive Director shall set it for a hearing.
  - 1) Interested persons desiring to intervene in the hearing shall submit a written request to the hearing officer. The hearing officer shall base his decision on whether to allow intervention upon the timeliness of the request, the degree to which the person requesting intervention has a real interest at stake, the ability of the parties to represent the interests of the person requesting intervention, and the complexity of the proceeding.

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- 2) The hearing officer shall inquire into all matters in dispute and shall obtain a full and complete record. The hearing officer shall file and serve upon the parties a recommended disposition of the matter.
- 3) Parties may file exceptions to the hearing officer's recommendations and briefs in support of their exceptions within ~~14~~fourteen days after receipt of the recommendation. Copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. A party may also file cross-exceptions and a supporting brief within 14 days from receipt of another party's exceptions and supporting brief. Copies of all cross-exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. Any other party may file a response to any cross-exceptions and supporting briefs within 14 days from receipt of a party's cross-exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. If no exceptions have been filed within 14 days after service of the hearing officer's recommended decision~~the fourteen-day period~~, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.
- 4) The Board will review the hearing officer's recommendation if a party has filed exceptions pursuant to Section 1105.80(b), or on the Board's own motion. The Board will issue its decision in accordance with 80 Ill. Adm. Code 1105.80(c) and (e).
- d) The parties may clarify the composition of the bargaining unit by stipulation. The stipulation shall be filed with the Board. A notice of the stipulation shall be posted on bulletin boards and at other places where notices for employees in the bargaining unit are customarily posted. The notice shall advise employees of the terms of the stipulation and direct persons objecting to the stipulation to file objections with the Board. The notice shall remain posted for at least 20 school days. The employer shall attempt to insure that the notice is not removed or defaced during the posting period and shall replace any notice which is removed or defaced.

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## NOTICE OF PROPOSED AMENDMENTS

- e) During the posting period, interested persons may file objections with the Board. Objections shall be served on the employer and the exclusive representative prior to, or simultaneously with, their filing with the Board.
- f) Following the posting period, if no objections have been filed, the Board shall approve or disapprove the clarification depending upon whether the clarification is consistent with the Act. If ~~no~~ objections have been filed, the Board shall proceed in accordance with subsection (c).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.180 Petitions for Self-Determination**

- a) Adding to an Existing Bargaining Unit
- 1) A self-determination petition to add unrepresented employees to an existing bargaining unit, where a question concerning representation would be presented by their inclusion, may be filed by an employee, a group of employees, or exclusive representative of the existing bargaining unit. The Board shall serve the petition on the appropriate parties. The petition shall be on a form developed by the Board. It shall be signed and shall contain the following:
- A1) the name and address of the petitioner;
- B2) the name, address and affiliation, if any, of the exclusive representative;
- C3) the name and address of the employer;
- D4) a description of the bargaining unit;
- E5) the approximate number of employees in the bargaining unit;
- F6) a description of the employees who would be added to the existing unit;
- G7) the approximate number of employees who would be added;

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- H) a statement whether the petitioner intends to use the card check procedure or the election procedure;
- I8) the date that the exclusive representative was recognized and the method of recognition, if known; and
- I9) a brief description of any collective bargaining agreements covering any employees in the bargaining unit, and the expiration dates of the agreements.
- 2)10) AThe self-determination petition seeking an election shall be accompanied by a showing of interest that at least 30 percent of the employees sought to be added to the existing unit wish to be represented by the exclusive representative. A majority interest self-determination petition shall be accompanied by a showing of majority interest among the employees sought to be added to the existing unit.
- 3)11) In any election conducted pursuant to this Part, only those employees that the petition seeks to add to the unit shall vote on the question of representation. In any card check conducted pursuant to this Part, a showing of majority interest among only the employees the petition seeks to add to the unit shall be required.
- 4)12) No unit will include *both professional employees and nonprofessional employees unless a majority of employees in each group votes for inclusion in the unit* (Section 7 of the Act).
- b) Merging Bargaining Units
- 1) A petition to merge two or more existing bargaining units, where a question concerning representation would not be presented by their inclusion, may be filed by an employee, a group of employees, or exclusive representative of either existing bargaining unit. The Board shall serve the petition on the appropriate parties. The petition shall be on a form developed by the Board. It shall be signed and shall contain the following:
- A1) the name and address of the petitioner;
- B2) the name, address and affiliation, if any, of the exclusive

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representative;

- ~~C3~~) the name and address of the employer;
  - ~~D4~~) a description of the proposed bargaining unit;
  - ~~E5~~) the approximate number of employees in the proposed bargaining unit;
  - ~~F6~~) a description of the employees in each of the existing units;
  - ~~G7~~) the approximate number of employees who would be added in each existing unit;
  - ~~H8~~) the date that the exclusive representative was recognized and the method of recognition, if known; ~~and;~~
  - ~~I9~~) a brief description of any collective bargaining agreements covering any employees in the bargaining units, and the expiration dates of the agreements.
- ~~2)40~~) In any election conducted pursuant to this Part, employees shall vote only on the question of unit merger.
- ~~3)44~~) No unit will include *both professional employees and nonprofessional employees unless a majority of employees in each group ~~votes~~ vote for inclusion in that unit* (Section 7 of the Act).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1110.APPENDIX A Model Authorization Card**

I authorize \_\_\_\_\_ (employee organization) \_\_\_\_\_ to be my exclusive collective bargaining representative for all purposes of collective bargaining with my employer.  
\_\_\_\_\_ :-

\_\_\_\_\_  
Name (printed or typed)

\_\_\_\_\_  
Employment position

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Unfair Labor Practice Proceedings
- 2) Code Citation: 80 Ill. Adm. Code 1120
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1120.20	Amendment
1120.30	Amendment
1120.40	Amendment
1120.50	Amendment
1120.70	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments change the standard for allowing a late Answer to a Complaint. These amendments provide for certifying an issue to the Board. These amendments provide for cross-exceptions. These amendments change the required notice of a hearing to conform to the Act. These amendments change the title of a compliance proceeding and change the deadline for the issuance of a compliance decision. In addition, these amendments update statutory citations.
- 6) Will this rulemaking replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400

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Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.

13) Regulatory Agenda on which this rulemaking was summarized: January, 2004

The full text of the proposed amendments begins on the next page:

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## NOTICE OF PROPOSED AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE C: LABOR RELATIONS

## CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## PART 1120

## UNFAIR LABOR PRACTICE PROCEEDINGS

## Section

1120.10	General Statement of Purpose
1120.20	Filing of a Charge
1120.30	Charge Processing and Investigation, Complaints and Responses
1120.40	Hearings
1120.50	Consideration by the Board
1120.60	Requests for Preliminary Relief
1120.70	Compliance Procedures
1120.80	Sanctions

**AUTHORITY:** Sections 5(i) and 15 of the Illinois Educational Labor Relations Act [115 ILCS 5/5(i) and 15].

**SOURCE:** Emergency rules adopted at 8 Ill. Reg. 7656, effective May 21, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 19413, effective September 28, 1984; amended at 14 Ill. Reg. 1322, effective January 5, 1990; emergency amendments at 16 Ill. Reg. 6052, effective March 30, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13500, effective August 25, 1992; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1120.20 Filing of a Charge**

- a) An unfair labor practice charge may be filed with the Illinois Educational Labor Relations Board (the Board) by an employer, an employee organization, or an employee.
- b) Unfair labor practice charges shall be on a form developed by the Board, shall be signed by the charging party, and shall contain:
  - 1) the name, address, and affiliation, if any, of the charging party;
  - 2) the name, address, and affiliation, if any, of the respondent;
  - 3) a clear and complete statement of facts supporting the alleged unfair labor

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practice, including dates, times and places of occurrence of each particular act alleged, and the sections of the Illinois Educational Labor Relations Act ~~[115 ILCS 5] (Ill. Rev. Stat. 1987, ch. 48, pars. 1701 et. seq.)~~ (the Act) alleged to have been violated; and

- 4) a statement of the relief sought, provided that the statement shall not limit the Board's ability to award relief based on the record.
- c) The Board shall serve a copy of the charge upon the respondent.
- d) Unfair labor practice charges may be filed no later than six months after the alleged unfair labor practice occurred.
- e) A charging party may withdraw without prejudice a charge at any time prior to the issuance of a complaint. After issuance of a complaint, a charging party may withdraw a charge only with the approval of the Executive Director. The Executive Director shall approve such withdrawal when he finds that the withdrawal is consistent with the Act and this Part and was not obtained fraudulently or through duress.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1120.30 Charge Processing and Investigation, Complaints and Responses**

- a) The Board hereby delegates to its Executive Director the authority to investigate charges and issue complaints.
- b) Upon receipt of a charge, the Executive Director shall investigate the charge. Procedures for investigating requests for injunctive relief are set forth in Section 1120.60.
  - 1) The charging party shall submit to the Executive Director all evidence relevant to or in support of the charge. Such evidence may include documents and affidavits.
  - 2) The respondent shall submit to the Executive Director a complete account of the facts, a statement of its position in respect to the allegations set forth in the charge and all relevant evidence in support of its position. Such evidence may include documents and affidavits.

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- 3) The Executive Director may hold an investigatory conference with the parties when the Executive Director determines that such investigatory conference will facilitate efforts, to explore whether the charge can be resolved informally or the facts stipulated, and to further develop the record for determination of whether the charge states an issue of law or fact.
  - 4) If the Executive Director concludes that the investigation has established that there is *an issue of law or fact* sufficient to warrant a hearing, he shall issue a complaint (Section 15 of the Act). In determining whether the issues of law or fact are sufficient to warrant a hearing, the Executive Director shall consider whether the charge states a cause of action upon which relief can be granted under the Act and whether the facts provided in the course of the investigation state a prima facie case. The complaint shall specify the charges and shall be served on the respondent and the charging party.
  - 5) If the Executive Director concludes that the investigation has established that there is not an issue of law or fact sufficient to warrant a hearing, the Executive Director shall dismiss the charge. In determining whether the issues of law or fact are sufficient to warrant a hearing, the Executive Director shall consider whether the charge states a cause of action upon which relief can be granted under the Act and whether the facts provided in the course of the investigation state a prima facie case. Notice of dismissal shall be served on the respondent and the charging party.
- c) The charging party may file exceptions to the Executive Director's dismissal of the charge and briefs in support of those exceptions. Exceptions must be filed with the Board no later than ~~14~~**fourteen** days after service of the notice of dismissal. Copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. The Board may review the Executive Director's decision on its own motion. In reviewing the exceptions, the Board will consider whether the Executive Director's decision is consistent with the Act and this Part and whether there has been an abuse of discretion.
  - d) Whenever an unfair labor practice complaint is issued, the respondent must file an answer within 15 days after service of the complaint.

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- 1) The answer shall include a specific admission, denial or explanation of each allegation of the complaint or, if the respondent is without knowledge thereof, it shall so state and such statement shall operate as a denial. Admissions or denials may be made to all or part of an allegation but shall fairly meet the allegation.
- 2) The answer shall also include a specific, detailed statement of any affirmative defenses including, but not limited to, allegations that the violation occurred more than six months before the charge was filed, that the Board lacks jurisdiction over the matter, or that the complaint fails to allege an unfair labor practice.
- 3) ~~Failure~~ ~~On motion of a party, failure~~ to file a timely answer shall be deemed an admission of all allegations in the complaint. Failure to respond to any particular allegation of the complaint shall be deemed to be an admission of that particular allegation. Filing of a motion will not stay the time for filing an answer.
- 4) When a party has failed to file a timely answer, the hearing officer shall issue an order to show cause why allegations of the complaint should not be deemed admitted. Leave ~~leave~~ to file a late answer may be granted by the ~~hearing officer~~ Hearing Officer in the absence of prejudice to the other parties if substantial justice is being done between the parties and if it is reasonable, under the circumstances, to compel the other parties to go to hearing on the merits. for good cause shown. ~~If leave to file a late answer is granted~~ good cause is shown, the answer shall be deemed timely. ~~Good cause will include: a written statement by the party of: ultimate facts showing a meritorious defense to the complaint; and either a reasonable excuse explaining the party's failure to file a timely answer, or that the party was prevented from filing a timely answer by: fraud, act or concealment of the opposing party; accident; excusable mistake; or lack of notice, lack of jurisdiction or other grounds traditionally relied upon for equitable relief from judgments.~~

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1120.40 Hearings**

- a) Upon the issuance of a complaint, the Executive Director shall set the matter for

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hearing before a hearing officer. All parties shall be given at least ~~five~~ seven days' notice of the hearing. The notice shall comply with Section 10-25(a) of the Illinois Administrative Procedure Act [~~5 ILCS 100/10-25(a)~~](Ill. Rev. Stat. 1991, ch. 127, par. 1010-25(a)).

- b) Interested persons who wish to intervene in the hearing shall direct such requests to the hearing officer. The request shall be in writing and shall state the grounds for intervention. The hearing officer shall have discretion to grant or deny the request for intervention. In determining whether to grant the request, the hearing officer shall base his decision on the timeliness of the request, the degree to which the person requesting intervention has a real interest at stake, and the ability of the parties to represent the interests of the person requesting intervention.
- c) The Board will encourage hearing officers to schedule voluntary prehearing conferences with the parties when it appears that such conferences will aid in narrowing or resolving issues.
- d) On motion of a party and with the approval of the Chief Administrative Law Judge, the Administrative Law Judge may certify an issue to the Board for a ruling prior to the issuance of the Administrative Law Judge's recommended decision and order. Intermediate rulings of the hearing officer shall not otherwise be subject to interlocutory appeal. Parties may raise objections to such intermediate rulings in their exceptions to the hearing officer's recommended decision or, if there is no recommended decision, in their briefs to the Board.
- e) The Complainant shall present the case in support of the complaint. *The respondent may present evidence in defense against the charges* (Section 15 of the Act).
- f) The hearing officer shall obtain a full and complete record by inquiring into all matters in dispute. The record shall be obtained either by evidentiary hearing or stipulation. Immediately prior to the close of the record, one or more parties may file motions to remove the case to the Board for decision. Responses to these motions may be filed as directed by the hearing officer. Within ~~14~~ fourteen days after the close of the record, the hearing officer shall rule on the motions. The hearing officer may also order the case removed to the Board on his own motion within fourteen days after the close of the record. If the hearing officer orders a case removed, he shall certify that there are no determinative issues of fact that require a hearing officer's recommended decision.

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- g) Within seven days after removal, a party may move the Board to remand the case to the hearing officer identifying in detail the material factual issues in dispute. If the Board fails to rule on the motion within 60 days, the motion to remand will be deemed denied. In cases removed to the Board, the Board shall remand the case if at any time it determines that the case presents issues of material fact requiring a hearing officer's recommended decision. A fact is material to the claim or defense in issue when the success of the claim or defense is dependent upon the existence of that fact.
- h) In cases not removed to the Board and in cases remanded to the hearing officer, the hearing officer shall file and serve on the parties a recommended decision as promptly as possible based on the length of the record and the complexity of the issues involved.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1120.50 Consideration by the Board**

- a) In cases in which there is a recommended decision, the parties may file exceptions to the hearing officer's recommendation and briefs in support of those exceptions. Briefs and exceptions shall be filed no later than 21 days after service of the recommendation. Copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 21 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. A party may also file cross-exceptions and a supporting brief within 14 days from receipt of another party's exceptions and supporting brief. Copies of the cross-exceptions shall be filed with the Board and served on all other parties, and a certificate of service shall be attached. Any other party may file a response to the cross-exceptions and supporting brief within 14 days from receipt of the cross-exceptions and supporting brief. Such response shall be filed with the Board and served upon all parties, and a certificate of service shall be attached. If no exceptions have been filed within 21 days after service of the hearing officer's recommended decision~~the 21-day period~~, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.
- b) The Board will review the hearing officer's recommendation if a party has filed

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exceptions pursuant to 80 Ill. Adm. Code 1105.220(b); or on the Board's own motion. In cases removed to the Board, the parties will file briefs in the manner directed by the Board, the manner to include the dates on which briefs will be due and the subjects to be addressed in the briefs, as specified by the Board. In cases in which exceptions are filed and those which are removed to the Board, the Board shall issue and serve on all parties its decision and order in accordance with 80 Ill. Adm. Code 1105.220(c)-(e).

- c) Oral argument shall be allowed only at the discretion of the Board. The Board shall direct oral argument when it determines that oral argument will assist determination of the issues.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1120.70 Compliance Procedures**

- a) The compliance procedures set forth herein shall commence once a Respondent
- 1) has failed to file exceptions to a Recommended Decision and Order of a ~~hearing officer~~Hearing Officer;
  - 2) has failed to appeal a final order of the Board; or
  - 3) when the appellate process initiated by a party after a final Board order has been exhausted and there remains an order requiring a Respondent to take certain affirmative action or to refrain from engaging in any action.
- b) If, upon the occurrence of any of the events designated ~~above~~ in Section 1120.70(a), compliance has not occurred, a compliance ~~hearing~~conference shall be conducted.
- c) The compliance ~~hearing~~conference shall be conducted by the Executive Director or his designee and shall be in the nature of a fact-finding ~~hearing~~conference, be recorded stenographically or by other appropriate means, at which the parties to the matter shall be afforded the opportunity to present documents, affidavits, and/or any other information, in addition to their positions, on the matter of Respondent's compliance with the order.
- d) Within ~~30~~14 days ~~after~~of the compliance ~~hearing~~conference described ~~above~~ in Section 1120.70(c), or a determination made under Section 1120.70(b) that

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compliance has taken place, the Executive Director shall cause to be served upon the parties a Recommended Decision and Order in which all issues of law and all issues of fact bearing on compliance with the order shall be resolved.

- e) For purposes of Section 1120.70(d), issues of fact are all issues bearing on the question of Respondent's compliance with the order other than those factual issues turning exclusively on the demeanor of a witness or witnesses.
- f) Parties may file exceptions to the Executive Director's recommendation and briefs in support of those exceptions no later than 14 days after receipt of the recommendation. Copies of all exceptions and briefs shall be served upon all other parties and a certificate of service shall be attached. Any party to the proceeding may file a response to any exceptions and supporting briefs within 14 days from receipt of a party's exceptions and supporting brief. Such response shall be filed with the Board and served on all parties. A party may also file cross-exceptions and a supporting brief within 14 days from receipt of another party's exceptions and supporting brief. Copies of the cross-exceptions and supporting brief shall be served upon all other parties and a certificate of service shall be attached. Any other party may file a response to the cross-exceptions and supporting brief within 14 days from receipt of the cross-exceptions and supporting brief. Such response shall be filed with the Board and served upon all parties, and a certificate of service shall be attached. If no exceptions have been filed within 14 days after service of the Executive Director's recommendation~~the 14 day period~~, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions. The Board will review the Executive Director's recommendation upon request by a party or on its own motion.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Fair Share Fee Objections
- 2) Code Citation: 80 Ill. Adm. Code 1125
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1125.10	Amendment
1125.80	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments change the deadline for the commencement of fair share hearings and provide for the service of summaries of decisions. These amendments provide for cross-exceptions. These amendments provide for the Chief Administrative Law Judge to appoint the fair share hearing officer. These amendments change “disperse” to “disburse” with respect to the distribution of funds from the Board’s escrow account. In addition, these amendments update statutory citations.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

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Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) 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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
  - C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

The full text of the proposed amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
 SUBTITLE C: LABOR RELATIONS  
 CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

PART 1125  
 FAIR SHARE FEE OBJECTIONS

## Section

1125.10	General Statement of Purpose
1125.20	Notice of Fair Share Fees
1125.30	Objections to Fair Share Fees
1125.40	Escrow Accounts
1125.50	Responses to Objections (Repealed)
1125.60	Consolidation of Fair Share Fee Objections
1125.70	Investigation of Fair Share Fee Objections
1125.80	Hearings
1125.90	Consideration by the Board (Repealed)
1125.100	Internal Review Procedure

AUTHORITY: Implementing Sections 3(a), 11, 14(a)(1) and (b)(1) and authorized by Section 5(i) of the Illinois Educational Labor Relations Act [115 ILCS 5/3(a), 11, 14(a)(1) and (b)(1), 5(i)].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 12873, effective August 5, 1985, for a maximum period of 150 days; adopted at 10 Ill. Reg. 206, effective December 19, 1985; emergency amendments at 12 Ill. Reg. 13707, effective August 10, 1988, for a maximum of 150 days; emergency expired January 7, 1989; amended at 13 Ill. Reg. 1784, effective January 31, 1989; emergency amendments at 13 Ill. Reg. 15469, effective September 13, 1989, for a maximum of 150 days; amended at 14 Ill. Reg. 2873, effective February 9, 1990; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1125.10 General Statement of Purpose**

- a) The Illinois Educational Labor Relations Board (Board) finds that ~~Sections~~Section 3(a), 11, and 14(a)(1) and 14(b)(1) of the Illinois Educational Labor Relations Act ("the Act") [115 ILCS 5/3(a), 11, 14(a)(1) and (b)(1)](~~Ill. Rev. Stat. 1987, ch. 48, pars. 1703(a), 1711, 1714(a)(1), 1714(b)(1))~~) govern the collection and/or expenditure of fair share fees over an employee's objection. The procedures in this Part provide the exclusive method for handling fair share fees upon the filing of an objection by an employee. Failure to abide by these

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procedures violates ~~Section~~Sections 14(a)(1) and (b)(1) of the Act. The nature of this unfair labor practice requires that special procedures be adopted for its efficient resolution.

- b) The procedures set forth in this Part do not preclude the filing of unfair labor practice charges pursuant to 80 Ill. Adm. Code 1120 alleging violations of Section 11 of the Act resulting from fees in excess of *the dues uniformly required of members or fees for contributions related to the election or support of any candidate for political office* (Section 11 of the Act).

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1125.80 Hearings**

- a) Except as provided below, hearings on fair share fee objections shall proceed in the same manner as hearings in both contested cases, as set forth in 80 Ill. Adm. Code 1105, Subpart B, and hearings in unfair labor practice proceedings, as set forth in 80 Ill. Adm. Code 1120.40.
- b) The Chief Administrative Law Judge~~Executive Director~~ shall appoint a fair share Hearing Officer to hold an evidentiary hearing and render a Recommended Decision and Order on the fair share fee objections.
- c) The burden of proof shall be on the exclusive representative.
- d) The hearing set forth in subsection (b)-~~above~~, shall commence no later than 60~~30~~ days from the last day for filing of an objection pursuant to Section 1125.30(a) of this Part. When objections involving two or more bargaining units are consolidated pursuant to Section 1125.60 of this Part, the hearing shall commence no later than 60 days from the last day for filing of an objection for the bargaining unit for which that date is latest. A Recommended Decision and Order shall be issued within 60 days of the close of the record, unless additional time (up to 30 days) is required due to the length of the record and/or the complexity of the issues involved. The Recommended Decision and Order or a summary of the Recommended Decision and Order shall be served on all parties to the proceeding.
- e) Within 21 days ~~after~~of the date of the Recommended Decision and Order, any party may file exceptions and briefs in support of those exceptions with the Board. A party may also file cross-exceptions and a supporting brief within 14

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

days after receipt of another party's exceptions and supporting brief. If no exceptions have been filed within 21 days after service of the Recommended Decision and Order~~in that 21-day period~~, the parties will be deemed to have waived their exceptions. If no cross-exceptions have been filed within 14 days after receipt of another party's exceptions and supporting brief, the parties will be deemed to have waived their cross-exceptions.

- f) If timely exceptions are filed, the Board shall issue and serve on all parties a copy or a summary of its decision and order.
- g) Upon direction of the Board, the employer shall cease transmitting the fee to the Board and shall deduct, from the objector's pay, the amount determined by the Board to be appropriate and pay same to the exclusive representative. The Board shall ~~disburse~~disperse the amount held in escrow to the employee and the exclusive representative in accordance with its determination in the case. Interest earned by disputed fees during the time they were held in escrow shall be apportioned pro rata between the employee and the exclusive representative.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Collective Bargaining and Impasse Resolution
- 2) Code Citation: 80 Ill. Adm. Code 1130
- 3) Section Numbers: 1130.40                      Proposed Action: Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: Updates the amount of notice of intent to strike that must be given due to statutory change. Corrects a quotation from the Act.
- 6) Will these proposed amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) Initial Regulatory Flexibility Analysis:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004 This rulemaking, in part, was not included on either of the two most recent regulatory agendas because: The need to correct the quotation from the Act was discovered after the preparation of the most recent agenda.

The full text of the proposed amendment begins on the next page:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE C: LABOR RELATIONS  
CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARDPART 1130  
COLLECTIVE BARGAINING AND IMPASSE RESOLUTION

## Section

1130.10	General Statement of Purpose
1130.20	Notices and Timetable for Bargaining
1130.30	Mediation
1130.40	Notice of Intent to Strike
1130.50	Fact Finding and Interest Arbitration
1130.60	Filing of Agreements
1130.70	Grievance Arbitration and No Strike Clauses
1130.80	Illinois Educational Labor Mediation Roster

AUTHORITY: Implementing Sections 10, 12, 13, and 14 and authorized by Section 5(i) of the Illinois Educational Labor Relations Act [115 ILCS 5/10, 12, 13, 14 and 5(i)].

SOURCE: Emergency adoption at 8 Ill. Reg. 8645, effective June 6, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 22538, effective November 5, 1984; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1130.40 Notice of Intent to Strike**

- a) *Educational employees shall not engage in a strike unless at least ~~10~~5 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the educational employer, the regional superintendent Regional Superintendent and the Illinois Educational Labor Relations Board. (Section 13 of the Act)*
- b) For purposes of this ~~Section rule~~, ~~10~~five days shall mean ~~10~~five calendar days. Intervening Saturdays, Sundays or legal holidays shall be included. The day on which the notice of intent to strike is given shall not be included. The last day of the period shall be included regardless of whether the last day falls on a Saturday, Sunday or legal holiday.
- c) Notice of intent to strike shall be in writing and shall include:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) the name, address and affiliation, if any, of the exclusive representative;
  - 2) the name and address of the employer;
  - 3) a description of the bargaining unit; and
  - 4) a statement of intent to strike.
- d) Notice of intent to strike shall be considered given to the Board on the date written notice is received by the Board, unless telephonic notice is given the Board's Executive Director or his designee during the Board's regular office hours, and confirmed immediately by written notice personally delivered to the Board's office or mailed to the Board's office by certified or registered mail.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: University of Illinois Bargaining Units
- 2) Code Citation: 80 Ill. Adm. Code 1135
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1135.10	Amendment
1135.20	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i)
- 5) A Complete Description of the Subjects and Issues Involved: Updates statutory citations.
- 6) Will these proposed amendments replace any emergency amendments currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney  
Illinois Educational Labor Relations Board  
160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) Initial Regulatory Flexibility Analysis:

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ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

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: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
  - C) Types of professional skills necessary for compliance: This rulemaking does not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2004

The full text of the proposed amendments begins on the next page:

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE C: LABOR RELATIONS

## CHAPTER III: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## PART 1135

## UNIVERSITY OF ILLINOIS BARGAINING UNITS

## Section

1135.10	General Statement of Purpose
1135.20	Presumptively Appropriate Bargaining Units
1135.30	Bargaining Unit Determinations

AUTHORITY: Implementing Sections 3 and 7 and authorized by Sections 5(i) and 9 of the Illinois Educational Labor Relations Act [115 ILCS 5/7, 5/3, 5/5(i), 5/9].

SOURCE: Adopted at 13 Ill. Reg. 14969, effective September 8, 1989; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1135.10 General Statement of Purpose**

This Part sets forth presumptively appropriate bargaining units for educational employees employed by the Board of Trustees of the University of Illinois. Nothing in this Part shall negate historical units created prior to January 1, 1984 or units certified by the Illinois Educational Labor Relations Board prior to the effective date of these regulations. Nothing in this Part shall be construed to supersede this Part or rights of educational employees under Section 7 of the Act. Presumptively appropriate means that a bargaining unit has been found to have the requisite community of interest under Section 7a of the Educational Labor Relations Act (the Act) [\[115 ILCS 5/7\(a\)\]](#)~~(Ill. Rev. Stat. 1987, ch. 48, par. 1707)~~, unless the appropriateness is rebutted by contrary evidence.

**Section 1135.20 Presumptively Appropriate Bargaining Units**

- a) With respect to educational employees employed at the Urbana-Champaign campus or employed in units located outside Urbana-Champaign which report administratively to the Urbana-Champaign campus, the following units shall be presumptively appropriate for collective bargaining:
  - 1) Unit 1: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenured or tenure-track faculty; all full-time, nontenure-track faculty who possess a terminal degree appropriate to the

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

academic unit in which the faculty member is employed; and all full-time, nontenure-track faculty without the appropriate terminal degree who have been employed for four consecutive semesters, excluding summer terms, but excluding all faculty members of the College of Law and the College of Veterinary Medicine. A terminal degree is the highest degree attainable in a discipline.

- 2) Unit 2: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenure or tenure track faculty members of the College of Law.
- 3) Unit 3: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenure or tenure track faculty members of the College of Veterinary Medicine.
- 4) Unit 4: All full-time non-visiting academic professionals exempted as Principal Administrative Employees from Section 36e of [the State Universities Civil Service Act \[110 ILCS 70/36e\]](#) "~~AN ACT to create the State Universities Civil Service System" (Ill. Rev. Stat. 1987, ch. 24½, par. 38b4)~~, who have a .50 or greater appointment in that position.
- 5) Unit 5: All full-time and regular part-time professional employees, as that term is defined in Section 2(k) of the Illinois Educational Labor Relations Act [\[115 ILCS 5/2\(k\)\]](#) "~~(Ill. Rev. Stat. 1987, ch. 48, par. 1702(k))~~, who are not exempt from [the State Universities Civil Service Act](#) "~~AN ACT to create the State Universities Civil Service System.~~"
- 6) Unit 6: All full-time and regular part-time technical and paraprofessional employees not exempt from [the State Universities Civil Service Act \[110 ILCS 70/36e\]](#) "~~AN ACT to create the State Universities Civil Service System" (Ill. Rev. Stat. 1987, ch. 24 1/2, par. 38b1 et seq.)~~. A technical and paraprofessional employee is a person who performs work that is typically laboratory or field work.
- 7) Unit 7: All full-time and regular part-time non-professional administrative and clerical employees not exempt from [the State Universities Civil Service Act](#) "~~AN ACT to create the State Universities Civil Service System.~~"
- 8) Unit 8: All full-time and regular part-time service and maintenance

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

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employees not exempt from ~~the State Universities Civil Service Act.~~ "~~AN ACT to create the State Universities Civil Service System.~~"

- b) With respect to educational employees employed at the Chicago campus or employed in units located outside Chicago which report administratively to the Chicago campus, the following units shall be presumptively appropriate for collective bargaining:
- 1) Unit 1: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenured or tenure-track faculty; all full-time, nontenure-track faculty who possess a terminal degree appropriate to the academic unit in which the faculty member is employed; and all full-time, nontenure-track faculty without the appropriate terminal degree who have been employed for four consecutive semesters, excluding summer terms, but excluding all faculty members of the College of Pharmacy, the College of Medicine and the College of Dentistry.
  - 2) Unit 2: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenure or tenure-track faculty members of the College of Dentistry.
  - 3) Unit 3: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenure or tenure-track faculty members of the College of Medicine.
  - 4) Unit 4: All full-time (i.e., employees who have .51 or greater appointment as a faculty member) tenure or tenure track faculty members of the College of Pharmacy.
  - 5) Unit 5: All full-time non-visiting academic professionals exempted as Principal Administrative Employees from Section 36e of ~~the State Universities Civil Service Act~~ "~~AN ACT to create the State Universities Civil Service System,~~" who have a .50 or greater appointment in that position.
  - 6) Unit 6: All full-time and regular part-time professional employees, as that term is defined in Section 2(k) of the Illinois Educational Labor Relations Act [~~115 ILCS 5/2(k)](~~Ill. Rev. Stat. 1987, ch. 48, par. 1702(k)~~), who are not exempt from ~~the State Universities Civil Service Act.~~ "~~AN ACT to create the State Universities Civil Service System.~~"~~

## ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 7) Unit 7: All full-time and regular part-time technical and paraprofessional employees not exempt from the State Universities Civil Service Act.~~"AN ACT to create the State Universities Civil Service System."~~
- 8) Unit 8: All full-time and regular part-time non-professional administrative and clerical employees not exempt from the State Universities Civil Service Act.~~"AN ACT to create the State Universities Civil Service System."~~
- 9) Unit 9: All full-time and regular part-time service and maintenance employees not exempt from the State Universities Civil Service Act.~~"AN ACT to create the State Universities Civil Service System."~~

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Professional Boxing Act
- 2) Code Citation: 68 Ill. Adm. Code 1370
- 3) Section Number: 1370.315                      Proposed Action: Amendment
- 4) Statutory Authority: Professional Boxing Act [225 ILCS 105]
- 5) A Complete Description of the Subjects and Issues Involved: The General Assembly previously banned “ultimate fighting” in Illinois but left the definition to be determined by rule. The Professional Boxing Act requires professional events to be regulated by DPR and amateur events to be sanctioned by USA Boxing or Golden Gloves of America; the only relevant exemption pertains to kickboxing or martial arts. Promoters well versed in our regulations promote their contests as kickboxing or martial arts to evade the intent of the Act. This rulemaking amends Section 1370.315 to clarify that the ban on ultimate fighting includes Toughman, Xtreme Fighting, and other fighting contests or exhibitions which have previously skirted the ban.
- 6) Will this proposed amendment replace any emergency amendments currently in effect?  
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation  
Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

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

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Promoters, holders and participants of these ultimate fighting contests.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: None

The full text of the proposed amendment is the same as the text that appears in the emergency amendment published in this issue of the *Illinois Register* on page 1760.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.126      Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0020
- 5) Complete Description of the Subjects and Issues Involved: This proposed rulemaking provides fiscal year 2004 budget implementation changes that affect specified inpatient hospital services. Reimbursement levels are being increased under Safety Net Adjustment Payments to provide additional funding to high volume Medicaid providers of hospital services. This funding will ensure continued access to necessary trauma and psychiatric care services for the Department's medical assistance clients. A spending increase of approximately \$3.9 million during fiscal year 2004 is anticipated on the basis of these proposed changes.
- 6) Will these proposed amendments replace any emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.120	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.122	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.160	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.170	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.190	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.290	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.290	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.295	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.310	Amendment	August 29, 2003 (27 Ill. Reg. 14090)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments on the Internet at <http://www.dpainline.com/lawsrules/publicnotice.html>. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph Street, Tenth Floor, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

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

- 12) Initial Regulatory Flexibility Analysis:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals will be affected
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the proposed amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page 1766.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Manufactured Home Community Code
- 2) Code Citation: 77 Ill. Adm. Code 860
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
860.20	Amendment
860.200	Amendment
860.210	Amendment
860.250	Amendment
860.260	Amendment
860.270	Amendment
860.280	Amendment
860.APPENDIX B	Repealed
860.TABLE B	Amendment
- 4) Statutory Authority: Authorized by and implementing the Mobile Home Park Act [210 ILCS 5]
- 5) A Complete Description of the Subjects and Issues Involved: These rules describe requirements for the design, construction, and operation of manufactured home communities. The amendments clarify issues regarding the location of the home support system for homes at new sites, street lighting and fire hydrant compliance in accordance with current fire safety codes.
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? Yes
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not require additional expenditures by units of local government.
- 11) Time, Place and Manner in which Interested Persons May Comment on this Rulemaking:  
Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043  
(E-mail: rules@idph.state.il.us)

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Manufactured home community owners
  - B) Reporting, Bookkeeping or Other Procedures Required for Compliance: No new procedures will be required for compliance.
  - C) Types of Professional Skills Necessary for Compliance: No professional skills will be required for compliance.
- 13) Date of regulatory agenda on which this rulemaking was summarized: January 2002

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER q: MOBILE HOMES

PART 860  
MANUFACTURED HOME COMMUNITY CODE

SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

Section	
860.10	Definitions
860.20	Incorporated and Referenced Materials

SUBPART B: PERMITS

Section	
860.100	Required Permits
860.110	Applications
860.120	Plans
860.130	Flood Plain Requirements
860.140	Occupancy of New Sites
860.150	Immobilization
860.160	Deletion of Sites

SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

Section	
860.200	Layout of the Manufactured Home Community
860.210	<u>Footing</u> Support Systems
860.220	Streets and Parking
860.230	Water
860.240	Sewage
860.250	Electrical
860.260	Fuel Supply
860.270	Fire Safety
860.280	Lighting
860.290	Pools and Beaches
860.300	Solid and Landscape Waste
860.310	Manufactured Home Community Appearance

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

860.320	Identification of Sites
860.330	Vector Control
860.340	Fences
860.350	Inspection Doors
860.360	Recreational Vehicles
860.370	Animal Control
860.380	Vacant Sites
860.390	Duplex Units

## SUBPART D: ADDITIONAL RESPONSIBILITIES OF THE LICENSEE

Section	
860.400	Required Documents
860.410	Manufactured Home Community Rules
860.420	Register
860.430	Inspections by Manufactured Home Community Management

## SUBPART E: ADMINISTRATIVE ACTION BY THE DEPARTMENT

Section	
860.500	Variance Procedures
860.510	Enforcement Action
860.520	Common Operation
860.530	Existing Communities
860.ILLUSTRATION A	Manufactured Home Community Layout For Sites Constructed After July 1, 1998
860.ILLUSTRATION B	Typical Manufactured Home Site
860.ILLUSTRATION C	Water Service Connection
860.ILLUSTRATION D	Sewer Service Connection
860.ILLUSTRATION E	Sample Register Information
860.ILLUSTRATION F	Manufactured Home Community Electrical System
860.APPENDIX A	Regional Offices of the Department
860.APPENDIX B	Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities <u>(Repealed)</u>
860.APPENDIX C	Unlicensed Motor Vehicles
860.APPENDIX D	Home Rule Units
860.TABLE A	Minimum Road Width
860.TABLE B	Water Distribution Pipe Size
860.TABLE C	Minimum Size and Slope of Sewer Mains

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

AUTHORITY: Implementing and authorized by the Mobile Home Park Act [210 ILCS 115].

SOURCE: Adopted March 2, 1973; amended at 4 Ill. Reg. 46, p. 1286, effective January 1, 1981; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 17520, effective September 11, 1984; old Part repealed and new Part adopted at 22 Ill. Reg. 8863, effective May 8, 1998; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: DEFINITIONS AND INCORPORATED MATERIALS

**Section 860.20 Incorporated and Referenced Materials**

The following standards of nationally recognized organizations and federal and State regulations are incorporated or referenced in this Part:

- a) The following materials are incorporated by reference and include no later amendments or editions:
  - 1) Standard Specifications for Water and Sewer Main Construction in Illinois, 1996 Edition published by:  
  
Illinois Society of Professional Engineers  
1304 South Lowell Avenue  
Springfield, Illinois 62704  
Referenced in Section 860.230.
  - 2) Flood Insurance Rate Map and Flood Hazard Boundary Map published by:  
  
Federal Insurance Administration  
Region V  
300 Wacker Drive, 24th Floor  
Chicago, Illinois 60606  
Referenced in Section 860.130.
  - 3) National Electrical Code, ~~2002~~1996 Edition (NFPA 70-~~0296~~) published by:  
  
National Fire Protection Association  
Batterymarch Park  
Quincy, Massachusetts 02269

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

Referenced in Section 860.250 and Appendix B.

- 4) Installation of Oil Burning Equipment, ~~2001~~~~1992~~ Edition (NFPA 31-~~0192~~) published by:  
  
National Fire Protection Association  
Batterymarch Park  
Quincy, Massachusetts 02269  
Referenced in Section 860.260.
- 5) National Fuel Gas Code, ~~1999~~~~1992~~ Edition (NFPA 54-~~9992~~) published by:  
  
National Fire Protection Association  
Batterymarch Park  
Quincy, Massachusetts 02269  
Referenced in Sections 860.160 and 860.260.
- 6) Storage and Handling of Liquefied Petroleum Gases, ~~1998~~~~1995~~ Edition (NFPA 58-~~9895~~) published by:  
  
National Fire Protection Association  
Batterymarch Park  
Quincy, Massachusetts 02269  
Referenced in Section 860.260.
- 7) American Society of Testing and Materials, Standard Method of Test for Surface Burning Characteristics of Building Materials, Standard E84, published by:  
  
American Society of Testing and Materials  
1916 Race Street  
Philadelphia, PA 19103  
Referenced in Section 860.270.
- 8) Pipeline Safety Regulations, 4a, CFR Part 192  
  
United States Department of Transportation  
Office of Pipeline Safety  
400 7th Street S.W.

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Washington, D.C. 20590  
Referenced in Section 860.260.

- b) The following materials are referenced in this Part:
- 1) State of Illinois statutes
    - A) Illinois Architectural Practice Act of 1989 [225 ILCS 305]  
Referenced in Section 860.120.
    - B) Illinois Professional Engineering Act [225 ILCS 325]  
Referenced in Section 860.120.
    - C) Illinois Vehicle Code [625 ILCS 5/4-203]  
Referenced in Section 860.310 and Appendix C.
    - D) Mobile Home Park Landlord and Tenant Act [765 ILCS 745]  
Referenced in Section 860.400.
    - E) Abandoned Mobile Home Act [210 ILCS 117]  
Referenced in Section 860.310.
    - F) Private Sewage Disposal Licensing Act [225 ILCS 225]  
Referenced in Section 860.240.
    - G) Smoke Detector Act [425 ILCS 60]  
Referenced in Section 860.410.
    - H) Plumbing License Law [225 ILCS 320]  
Referenced in Sections 860.230 and 860.240.
    - I) Swimming Pool and Bathing Beach Act [210 ILCS 125]  
Referenced in Sections 860.120 and 860.290.
    - J) Illinois Mobile Home Tiedown Act [210 ILCS 120]  
Referenced in Section 860.400.
    - K) Illinois Municipal Code [65 ILCS 5/11-40-3]  
Referenced in Appendix C.

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- L) Counties Code [55 ILCS 5/5-1092]  
Referenced in Appendix C.
- M) Townships Code [60 ILCS 1/30-130]  
Referenced in Appendix C.
- 2) Department of Public Health regulations
  - A) Illinois Swimming Pool and Bathing Beach Code (77 Ill. Adm. Code 820)  
Referenced in Section 860.290.
  - B) Illinois Plumbing Code (77 Ill. Adm. Code 890)  
  
Referenced in Sections 860.230, 860.240 and Appendix B.
  - C) Private Sewage Disposal Code (77 Ill. Adm. Code 905)  
Referenced in Section 860.240.
  - D) Drinking Water Systems Code (77 Ill. Adm. Code 900)  
Referenced in Section 860.230.
  - E) Illinois Water Well Construction Code (77 Ill. Adm. Code 920)  
Referenced in Section 860.230.
  - F) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)  
Referenced in Section 860.230.
  - G) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)  
Referenced in Section 860.230.
  - H) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)  
  
Referenced in Section 860.230.
  - I) Mobile Home Tiedown Code (77 Ill. Adm. Code 870)  
Referenced in Section 860.360.
  - J) Rules for Practice and Procedure for Administrative Hearings (77

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Ill. Adm. Code 100)

Referenced in Section 860.510.

- 3) Illinois Pollution Control Board regulations
  - A) Public Water Supplies (35 Ill. Adm. Code Subtitle F)  
Referenced in Section 860.230.
  - B) Waste Disposal (35 Ill. Adm. Code Subtitle G)  
Referenced in Section 860.240.
  - C) Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Subtitle G, Subchapter i)  
Referenced in Section 860.300.
- 4) Illinois Environmental Protection Agency regulations  
Illinois Recommended Standards for Sewage Works (35 Ill. Adm. Code 370)  
  
Referenced in Section 860.240.
- 5) Materials of Other State Agencies
  - A) Regulatory Flood Plain Map published by:  
  
Illinois Department of Natural Resources  
Division of Water Resources  
310 South Michigan, Room 1606  
Chicago, Illinois 60604  
Referenced in Section 860.130.
  - B) Statewide Permit Number 6, issued September 15, 1993 by:  
  
Illinois Department of Transportation  
Division of Water Resources  
2300 South Dirksen Parkway  
Springfield, Illinois 62764  
Referenced in Section 860.130.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## SUBPART C: REQUIREMENTS OF THE MANUFACTURED HOME COMMUNITY

**Section 860.200 Layout of the Manufactured Home Community**

- a) All areas of the manufactured home community shall be drained to prevent ponding of water. If necessary, a storm drainage system shall be installed.
- b) Section 9.3 of the Act specifies the minimum square footage of each site and the location of the homes on the site. (See Section 860. Illustrations A and B.) There shall be a minimum street frontage of 25 linear feet for each site.
- c) Manufactured homes located on sites constructed prior to July 1, 1998 shall be at least 5 feet from the property line of the manufactured home community and 10 feet from any public street, alley, or building. Homes located on these sites shall not be closer to a private street than the previous home on that site. ~~There shall be a minimum separation of 10 feet from the side of a manufactured home to another manufactured home and a minimum of 5 feet from the end of a manufactured home to another manufactured home.~~
- d) Manufactured homes located on sites constructed after July 1, 1998 shall be located at least 5 feet from the manufactured home community property line, 10 feet from public or private streets, alleys, buildings or other manufactured homes, and shall not extend over a sidewalk.
- e) There shall be a minimum separation of 10 feet from the side of a manufactured home to any portion of another manufactured home and a minimum of 5 feet from the end of a manufactured home to the end of another manufactured home.
- f)e) All portions of sheds, carports, garages, porches and similar structures constructed after July 1, 1998 shall be at least 3 feet from the manufactured home community property line, 5 feet from any other structure on adjacent sites, and 10 feet from all streets. For corner sites sheds shall be at least 3 feet from all streets. Existing portions of sheds, carports, garages, porches, and similar structures may be replaced at the same location without complying with the requirements of this subsection (fe). ~~f) —When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location.~~
- g) If any portion of a home, porch or step is within 5 feet of a private street, a speed

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limit of 10 miles per hour or less shall be posted for that street.

- h) When questions arise concerning the property lines of the manufactured home community, the licensee shall be responsible for identifying the legal location.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.210 Footing Support Systems**

- a) Sites on which homes are installed prior to the effective date of this rulemaking July 1, 1998 shall have a footing support system in accordance with the requirements as required by the Mobile Home Park Code in effect at the time of the installation.
- b) Manufactured home sites constructed after the effective date of this rulemaking shall meet the following requirements. Homes installed after July 1, 1998, shall be installed on a level support system capable of supporting the design load of the home. The support system shall consist of a minimum 3 1/2 inches thick concrete pad, runners or pier. The support system shall be placed on undisturbed soil or compacted material. Alternative equivalent systems may be submitted for approval by the Department. Pads shall be the approximate dimension of the home. Runners shall be either parallel or perpendicular to the length of the home. Runners that are parallel with the length of the home shall be a minimum of 20 inches wide, extend the approximate length of the home and be located so that blocking rests entirely on the runners. Runners that are perpendicular to the length of the home shall be a minimum of 12 inches wide, extend the approximate width of the home and be spaced at maximum eight feet intervals center to center along the length of the home. Pier blocks shall bear entirely on the pier support system. The manufactured home community owner is responsible for determining that the support system is adequate for the specific soil conditions. A copy of manufactured home installation guidelines is available from the Department. c) The support system can extend below the frost depth to prevent the home from shifting as a result of the freezing and thawing of the soil. The entire support system must be installed at the same approximate depth to prevent damage to the home from frost heave. d) The ground and impervious surfaces surrounding the perimeter of the home shall be sloped to direct all surface water away from the home for sites constructed after July 1, 1998.
- 1) The footing support system shall be designed to support a total load of 80 pounds per square foot.

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- 2) The footing system shall either extend below the established frost depth or be a frost free footing system approved by a licensed Illinois professional engineer.
- 3) The ground surface surrounding the perimeter of the home shall be sloped a minimum of ½ inch per foot for at least six feet from the perimeter of the home. Impervious surfaces such as concrete or asphalt in this area shall be sloped away from the home at least one inch per six feet.
- 4) Tests to determine the load bearing capacity of the soil shall be taken at the location of the home for each site. The footing system shall be designed based on the requirements of the Manufactured Home Installation Code (77 Ill. Adm. Code 870).
- 5) The licensee of the community must keep on file information pertaining to each site support system constructed after the effective date of this rulemaking. This information must include the soil bearing capacity of the soil under the footings, the bag mix of the concrete utilized for the footings, the size of the footings (length, width and depth), the spacing of the footings and the use of any rebar or mesh material. This information shall be available to the Department and licensed manufactured home installers upon request.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.250 Electrical**

## a) New Installations

- 1) All electrical distribution systems constructed or replaced after July 1, 1998 shall be designed and constructed to conform to the requirements of the National Electrical Code, 1996 Edition. Article 550-C of the National Electrical Code contains specific requirements for manufactured home communities. (See Section 860.Appendix B.) All electrical distribution systems constructed or replaced after the effective date of this rulemaking shall be designed and constructed to conform to the requirements of the 2002 edition of the National Electrical Code.
- 2) For homes installed after July 1, 1998, the manufactured home community

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licensee shall be responsible for providing electrical service equipment at least equivalent to the amperage capacity of the home which it serves.

b) Existing Installations

The following minimum requirements shall apply to electrical systems installed prior to July 1, 1998:

- 1) The electrical distribution system to the manufactured home sites shall be single phase, 120/240 volts nominal.
- 2) The type, size, installation and location of all conductors shall comply with their approved use as indicated in the edition of the National Electrical Code in effect at the time of construction.
- 3) The service equipment shall not be attached to the home, located under the home, or located anywhere that is not readily accessible. Obstructions such as bushes shall not be located within three feet of the front of the service equipment.
- 4) All electrical equipment installed outdoors shall be the weatherproof type. Equipment located under the home shall be protected from the weather.
- 5) The service equipment and any other electrical devices shall be at least 12 inches above grade and secured to prevent any movement.
- 6) The manufactured home feeder conductor shall be either a cord which meets the requirements of the manufacturer of the home or a permanently installed feeder as specified by the National Electrical Code in effect at the time of installation.
- 7) All circuits at the service equipment shall be protected by over-current protection as required by the National Electrical Code in effect at the time of installation.
- 8) Overhead conductors shall provide an 18 feet vertical clearance over all streets, a 12 feet clearance over driveways, and a 10 feet clearance above grade in all other areas. Electrical conductors emerging from the ground shall be protected by enclosures or raceways for direct buried cable or to the approved buried depth for protected conductors and up to a point 8 feet above grade. Acceptable protection shall be rigid metal, intermediate

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metal or Schedule 80 non-metallic conduit or channel. Manufactured home power supply cords need not be enclosed in conduit or raceways.

- c) **Maintenance of All Systems**  
All electrical systems shall be maintained in a safe condition. All damaged or defective equipment shall be repaired or replaced, all loose equipment shall be secured, all faceplates and panel fronts shall be in place and all live parts shall be covered to prevent accidental contact. Dead tree branches which overhang distribution wiring shall be removed. All components of the manufactured home community electrical system shall be inspected by the manufactured home community management and it shall be the responsibility of the licensee to have any defects corrected.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.260 Fuel Supply**

The distribution, storage, and use of natural gas, liquefied petroleum gas, fuel oil, or other fuels shall be in accordance with the following:

- a) The National Fire Protection Association's Installation of Oil Burning Equipment, ~~2001~~~~1992~~ Edition.
- b) The National Fire Protection Association's National Fuel Gas Code, ~~1999~~~~1992~~ Edition.
- c) The National Fire Protection Association's Storage and Handling of Liquefied Petroleum Gases, 1995 Edition.
- d) The United States Department of Transportation's Pipeline Safety Regulations.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.270 Fire Safety**

- a) Bales of straw or other flammable materials that do not meet the requirements of subsection (b) of this Section shall not be used for skirting or insulation of the manufactured home.
- b) Garages, carports, porches, awnings, sheds, skirting and other similar

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appurtenances shall be constructed of material designed for exterior use that meets the flame spread rating of 200 or less in accordance with the American Society of Testing and Materials, Standard Method of Test for Surface Burning Characteristics of Building Materials (Standard E84).

c) Fire Hydrants

- 1) If a manufactured home community has fire hydrants, the fire hydrant valves shall be tested annually and the flow rates documented by the local fire department, water department or other entity capable of analyzing the available flow from the hydrants. Such test results shall be available to the Department upon request.
- 2) The licensee shall provide notification in writing to the local fire department of the hydrants that have been deemed unsatisfactory, which includes an agreement to either remove the hydrants; reverse the top of the hydrant or provide some other identification acceptable to the fire department to indicate that the hydrant is not acceptable; or install a system that meets the requirements of subsection (d).
- 3) The residents of the manufactured home community shall be advised in writing by the licensee within 30 days when a manufactured home community licensee becomes aware that one or more hydrants in the community is inadequate. The location of these fire hydrants shall be specified in writing, along with a plan to correct the situation and an anticipated date for completion. A copy of such notification shall be provided to the Department's Springfield office.

d)e) Manufactured home communities constructed after the effective date of this rulemaking July 1, 1998 must be located in a fire protection district and provided with fire hydrants within 500 feet of any structure in the manufactured home community. As an alternative to fire hydrants, a holding pond or other source of water of 100,000 gallons or more accessible to the fire department may be used, if the fire department is capable of pumping from the body of water. The minimum size water main for providing fire protection shall be six inches in diameter. The system shall be designed to maintain a minimum pressure of 20 psi at all points in the distribution system under normal conditions of flow.

e)d) Flammable liquids and gasoline-powered equipment other than motorized vehicles shall not be stored within five feet of a manufactured home, except when

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stored in a shed or garage.

~~f)e~~) All intended means of egress shall not be obstructed.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.280 Lighting**

Communities constructed after ~~March 23, 1973~~~~July 1, 1998~~ shall have an average illumination level of at least 0.6 foot candles and a minimum illumination level of 0.3 foot candles maintained for all streets in the manufactured home community. To achieve this level of illumination, the following are acceptable:

- a) The use of a 175 watt mercury or sodium vapor lamp or a 600 watt tungsten lamp, at an elevation of 25 feet, every 250 feet.
- b) Yard lights, at each site, having an average equivalent illumination of a 100 watt electric light bulb.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 860.APPENDIX B Explanation of the 1996 National Electrical Code Requirements for Manufactured Home Communities (Repealed)**

~~All electrical distribution systems constructed or repaired after July 1, 1998 must meet the requirements of the 1996 National Electrical Code. Section 860.Illustration F contains a diagram of the electrical system in the manufactured home community. The following is an explanation of some of the specific requirements of the National Electrical Code.~~

**TRANSFORMERS**

- ~~1. Article 550-22(a) of the National Electrical Code requires, as a minimum, that the transformer be sized on the larger of (1) 16,000 volt-amperes (at 120/240 volts) for each manufactured home site or (2) the load calculated in accordance with Section 550-13 for the largest typical home that each site will accept. Table 550-22 contains the minimum demand factors. The following are examples:~~

<u>Number of Sites</u>	×	<u>Demand Factor</u>	=	<u>Minimum Capacity of Transformer (volt-amperes)</u>
1		100%		16,000
2		55%		17,600
3		44%		21,120
4		39%		24,960
5		33%		26,400
6		29%		27,840
7		28%		31,360
8		28%		35,840
9		28%		40,320
10		27%		43,200
11		27%		47,520
12		27%		51,840
13		26%		54,080
14		26%		58,240
15		26%		62,400
16		25%		64,000
17		25%		68,000
18		25%		72,000
19		25%		76,000

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20	25%	80,000
21	25%	84,000
22	24%	84,400
23	24%	88,320
24	24%	92,160
25	24%	96,000
26	24%	99,840
27	24%	103,680
28	24%	107,520
29	24%	111,360
30	24%	115,200
31	24%	119,040
32	24%	122,880
33	24%	126,720
34	24%	130,560
35	24%	134,400
36	24%	138,240
37	24%	142,080
38	24%	145,920
39	24%	149,760
40	24%	153,600
41	23%	150,880
42	23%	154,560
43	23%	158,240
44	23%	161,920
45	23%	165,600
46	23%	169,280
47	23%	172,960
48	23%	176,640
49	23%	180,320
50	23%	184,000
51	23%	187,680
52	23%	191,360
53	23%	195,040
54	23%	198,720
55	23%	202,400
56	23%	206,080
57	23%	209,760
58	23%	213,440
59	23%	217,120

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~~60~~~~23%~~~~220,800~~

- ~~2. The transformer shall be grounded as required by Article 250. This conductor shall be sized as required by Article 250-95.~~

~~SERVICE ENTRANCE CONDUCTORS~~

- ~~1. The service entrance conductor may either be overhead (see Article 230-B) or underground (see Article 230-C) (See Section 860, Illustration F).~~
- ~~2. The service entrance conductor shall contain a minimum of 2 hot conductors and 1 neutral, all individually insulated. Section 310-15 indicates the requirements and Table 310-16 specifies the minimum size of the underground conductors and Tables 310-17, 18 and 19 contain the minimum size of the overhead conductors.~~
- ~~3. Service entrance conductors shall not be spliced (Article 230-46).~~
- ~~4. Overhead conductors must meet the clearance requirement of Article 230-24 (18 feet clearance over streets, 15 feet over driveways, and 10 feet elsewhere). Be advised that height requirements are dependent on the voltage the conductors are carrying.~~
- ~~5. Direct buried cables must be buried a minimum of 24 inches. Rigid metal or intermediate metal conduit must be buried at least 6 inches. See Table 300-5 for other requirements.~~
- ~~6. Conductors emerging from the ground must be protected by enclosures or raceways extending 18 inches below grade for direct buried cable or to the approved buried depth for protected cable and up to a point 8 feet above grade. Acceptable protection shall be rigid metal conduit, intermediate metal conduit or Schedule 80 rigid non-metallic conduit.~~

~~SERVICE EQUIPMENT~~

- ~~1. The service entrance equipment must be readily accessible within 30 feet of the home it serves or a properly grounded disconnecting means within 30 feet of the home must be provided (Article 550-23(a)).~~
- ~~2. The service entrance equipment must be rated at least 100 amperes. The equipment may include up to a 50 ampere receptacle if the proper over-current~~

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~~protection is provided (Article 550-23(b)).~~

- ~~3. The equipment must also include provisions for a branch circuit to serve any auxiliary structures or equipment such as yard lights and lawn maintenance equipment (Article 550-23(c)).~~
- ~~4. All 15 and 20 ampere receptacles installed outdoors must be protected by approved ground fault circuit protection for personnel (Article 550-23(d)).~~
- ~~5. The required disconnection means shall be located between 2 feet and 6 1/2 feet from the ground (Article 550-23(e)).~~
- ~~6. The service equipment shall be grounded as required by Article 250-32. See Section 250-H for the requirements of the grounding electrode system.~~

**FEEDERS**

- ~~1. The manufactured home feeder conductor may either be a factory installed cord or a permanently installed feeder. Either shall contain 4 continuous insulated color coded conductors, one which shall be the grounding conductor (Article 550-24).~~
- ~~2. The feeders may be overhead or underground. Similar requirements for clearances and size of the conductors apply as indicated for the service conductor.~~
- ~~3. Underground feeders may be directly buried if they bear a UF or USE marking. Otherwise they must be protected as required by Table 300-5.~~
- ~~4. The underground feeders must be protected as required by Article 300-5(d) where it emerges from the ground both at the service equipment and under the home. Because the home may be subject to vertical movement due to the freezing of the soil, provisions shall be made to allow for this movement without causing damage to the conductors.~~

**DISTRIBUTION PANEL**

~~The wiring of the distribution panel, which is located in the home, is not within the Illinois Department of Public Health's jurisdiction. However, it is important that the following provisions of Article 550-11 be met.~~

- ~~1. The white (neutral) conductor is required to be run from the "insulated busbar" in~~

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~~the manufactured home panel to the service entrance equipment, where it is connected to the terminal at the point of connection to the grounding electrode conductor.~~

- ~~2. The green (grounding) conductor is required to be run from the "panel grounding bus" in the manufactured home to the service entrance equipment, where it is connected to the neutral conductor at the point of connection to the grounding electrode conductor.~~
- ~~3. The requirements provide that the grounded (white) conductor and the grounding (green) conductor be kept separate within the manufactured home structure and only connected at the service entrance equipment in order to secure the maximum protection against electric shock hazards if the supplied neutral conductor should become open.~~
- ~~4. The grounded circuit conductor (neutral) shall be insulated from the grounding conductors and from equipment enclosures and other grounded parts. The grounded (neutral) circuit terminals in the distribution panelboard shall be insulated from the equipment enclosure.~~
- ~~5. The green colored grounding wire in the feeder shall be connected to the grounding bus in the distribution panelboard.~~
- ~~6. All exposed non-current-carrying metal parts that may become energized shall be effectively bonded to the grounding terminal of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.~~

(Source: Repealed at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 860.TABLE B Water Distribution Pipe Size**

Inside Diameter of Main (In inches)	Number of Manufactured Home Sites Connected	Maximum Length of Main (In feet)
2	20	600
3	60	1,800
4	120	3,600
6	400	12,000

NOTE: If local requirements exceed the above sizes, the local standards must be met. A minimum 6 inch diameter pipe is required if fire hydrants are installed in the water distribution system.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Illinois Manufactured Home Tiedown Code
- 2) Code Citation: 77 Ill. Adm. Code 870
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
870.10	Repealed
870.20	Repealed
870.30	Repealed
870.40	Repealed
870.50	Repealed
870.60	Repealed
870.70	Repealed
870.Table A	Repealed
- 4) Statutory Authority: Authorized by and implementing the Illinois Mobile Home Tiedown Act [210 ILCS 120]
- 5) A Complete Description of the Subjects and Issues Involved: These rules are being repealed and replaced with new proposed rules. The content of the manufactured home tiedown code will be included in the proposed Manufactured Home Installation Code
- 6) Will this Rulemaking Replace any Emergency Repealer Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain any Incorporations by Reference? No
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand expenditures by units of local government.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor

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Springfield, Illinois 62761  
(217)782-2043  
(E-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us))

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: This repealer will not have an impact on small businesses.
  - B) Reporting, Bookkeeping or Other Procedures Required for Compliance: This repealer will not create any new requirements.
  - C) Types of Professional Skills Necessary for Compliance: No professional skills are required for compliance.
- 13) Date of regulatory agenda on which this rulemaking was summarized: This rulemaking was summarized on the Department's January 2002 regulatory agenda.

The full text of the proposed repealer begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER q: MOBILE HOMES

## PART 870

ILLINOIS MANUFACTURED HOME TIEDOWN CODE (REPEALED)

## Section

870.10	Statutory Authority
870.20	Definitions
870.30	Tiedown Equipment Approval
870.40	Compliance
870.50	Tiedown Installation Requirements
870.60	Equipment Specifications
870.70	Administrative Hearings
870.TABLE A	Soil Class Marking of Anchors

AUTHORITY: Implementing and authorized by the Illinois Mobile Home Tiedown Act [210 ILCS 120].

SOURCE: Adopted at 4 Ill. Reg. 25, p. 148, effective July 1, 1980; codified at 8 Ill. Reg. 17513; amended at 21 Ill. Reg. 9475, effective July 1, 1997; emergency amendment at 22 Ill. Reg. 2626, effective January 14, 1998, for a maximum of 150 days; emergency expired June 13, 1998; amended at 23 Ill. Reg. 5609, effective June 1, 1999; repealed at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 870.10 Statutory Authority**

This Part is promulgated pursuant to authority granted by the Illinois Mobile Home Tiedown Act [210 ILCS 120].

**Section 870.20 Definitions**

In addition to the definitions contained in the Illinois Mobile Home Tiedown Act [210 ILCS 120] the following definitions shall apply:

Frost Depth. The normal maximum depth that frost penetrates the earth in a given area.

Frost Heave. An upthrust of ground or pavement caused by freezing of moist soil.

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Independent Testing Laboratory. An organization which:

Primarily is interested in testing and evaluating equipment; and

Is qualified and equipped to conduct and evaluate experimental testing in accordance with approved standards; and

Makes available a published report in which specific information is included stating that the equipment and installations have been tested and found safe for use in a specific manner; and

Is not under the jurisdiction or control of any manufacturer or supplier of any industry.

Length of a Manufactured Home. The distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, or other attachments.

Manufactured Home. A structure, transportable in one or more sections, which, while in the traveling mode, is eight body feet or more in width or 40 feet or more in length, or, when erected on site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Any home defined in the Mobile Home Park Act [210 ILCS 115] as a "mobile home" is defined as a "manufactured home" for the purpose of this Part.

Permanent Foundation. A continuous perimeter formation intended to support and anchor the unit to withstand the specified design loads. It shall consist of materials such as concrete, mortared concrete block or mortared brick, steel or treated lumber extending into the ground below the frost depth which shall include basements or crawl spaces.

Site. The location where the manufactured home is connected to the required utilities for habitation.

Tiedown Manufacturer. Any person or business engaged in the manufacturing of

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tie down equipment which is offered for sale or use in this State.

**Section 870.30 Tiedown Equipment Approval**

- a) **Manufacturer's Approval.** Each tie down manufacturer shall file with the Department a written request for approval to sell tie down equipment in Illinois. The installation of such equipment shall not be permitted unless such equipment is approved by the Department. In order to obtain approval, each tie down manufacturer must submit the following:
- 1) Detailed plans and specifications of all tie down equipment showing model identification number, pertinent dimensions, materials, and method of securing ties. Each drawing shall bear the seal of a registered Professional Engineer.
  - 2) Test data regarding the strength of all equipment, which has been prepared and certified by a recognized independent testing laboratory, demonstrating that the anchor and all tie down equipment meets the requirements of Section 870.60. Each piece of equipment must be tested a minimum of three times and shown to meet the requirements of Section 870.60. The tests must be conducted with the equipment installed according to the installation instructions.
  - 3) A copy of the installation instruction for each anchor. These must accompany all anchors when sold. For ground anchors, information as to the types of soil in which the anchor is certified to be installed, the method of installation, the type and size of stabilization devices required, the amount of preloading, and the method of tension adjustment after installation. The instructions for installation must be consistent with the testing of the equipment especially with regard to the angle and depth of installation of ground anchors. The instructions for concrete anchors shall specify as a minimum the minimum amount of concrete required, the distance from the edge of the concrete and the compressive strength of the concrete. A copy of all revisions to instructions must be submitted prior to the issuance of approval.
  - 4) Each anchor shall be permanently marked with an identification number that is visible when the equipment is installed. This identification number must also include a soil class marking that indicates the soil class for which the anchor was approved. Table A indicates the markings to be

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used for the different types of soil classifications.

- 5) If the design, construction or installation instructions of any approved equipment are changed, approval must be obtained from the Department.
- b) **Alternate Approval.** A home owner, dealer, or installer who wishes to tie down a manufactured home with a unique system or materials different from one approved under subsection (a) above must submit all such information on material specifications, strength of equipment, and system design to the Department for approval. The approval will be based upon the criteria specified in Sections 870.50 and 870.60.
- c) **Evidence of Approval.** The tie down manufacturer shall present evidence of Department approval to any homeowner or installer upon request. Approval shall be evidenced by the letter of approval from the Department for the specific equipment.
- d) **Previous Approvals.** All approvals issued by the Department previously for tie down equipment shall become void on June 1, 1999. New approval must be obtained to sell tie down equipment in Illinois after June 1, 1999, in accordance with the criteria in subsection (a) of this Section.

**Section 870.40 Compliance**

- a) All manufactured homes and room expansions installed after June 1, 1999 must be tied down in accordance with this Part, the home manufacturer's instructions and the tie down manufacturer's instructions within 30 days after the home is installed on the site. All room expansions shall be secured in accordance with the manufacturer's instructions. Failure to comply with these requirements may void the home manufacturer's warranty.
- b) In the case where frozen soil or wet soil prevents the installation of ground anchors, this 30 day limit shall not apply. The home must, in this case, be anchored at the earliest possible date after the soil thaws or dries.

**Section 870.50 Tiedown Installation Requirements**

- a) **Design Criteria.** Homes placed in Illinois shall resist a minimum horizontal wind load of 22.5 pounds per square foot and a minimum uplift load of 13.5 pounds per square foot (Wind Zone 1).

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- b) Ties.
- 1) Cable, strapping or other approved material shall be used for ties.
  - 2) The ties shall connect from an anchor to the closest I-beam beneath the home. Ties shall not connect to steel outriggers, unless specifically stated in the home manufacturer's installation instructions. The angle formed between the tie and the ground shall be between 40 and 50 degrees. If this angle exceeds 50 degrees when the tie is connected to the nearest I-beam, a tie shall connect from an anchor to both I-beams of the unit.
  - 3) Ties shall be evenly spaced on each side of the length of the home with a maximum separation of 12 feet and with the end ties within two feet of each end.
  - 4) If steel strapping is used, it must be secured around the I-beam using an approved connecting device. Straps shall go from the anchor to the top of the I-beam unless the home manufacturer's instructions are provided indicating otherwise. Care shall be exercised to ensure that minimum bending radius is adhered to so that the breaking strength of the strapping is not reduced.
  - 5) The ties shall be secured to the I-beam of the home so that they will not become disconnected if the tension is loosened.
  - 6) Ties must terminate with a D-ring, bolt or other tensioning device that will not lower the material strength below that stated in Section 870.60(a).
  - 7) All cable ends shall be secured with at least two utility bolt type clamps or other fastening device.
- c) Anchors.
- 1) All anchors must be installed to full depth as specified in the anchor manufacturer's installation instructions.
  - 2) Stabilizing devices must be utilized when the load on the ground anchor is not applied in line with the anchor. Provisions shall be made to minimize deflection or slicing through the soil by the anchor rod at ground level.

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The method of restricting deflection may be the encasement of the top portion of the anchor in a concrete collar or by the use of a stabilizer plate.

- 3) Ground anchors installed in line with the load of the anchor must be a minimum of 48 inches in length.
- d) Frost Heave. The following measures shall be taken by the homeowner for the specific type of installation in order to prevent frost heave, which can cause damage to a home:
  - 1) If the support system for the home does not extend below the frost depth but the anchors do, the ties shall be adjusted (loosened slightly in the fall and tightened in the spring) to compensate for the tension caused by the earth movement.
  - 2) If the support system for the home extends below the frost depth but the anchoring system does not, the ties shall be tightened in the fall and loosened slightly in the spring.
  - 3) If the anchoring system and the support system for the home both extend below the frost depth or neither extends below the frost depth, no provisions for frost heave are necessary.
- e) Permanent Foundation. Homes installed on a permanent foundation are not required to comply with this Code if the foundation is constructed and the home anchored according to the requirements of the CABO One and Two Family Dwelling Code, 1995 Edition, published by the Council of American Building Officials. Copies of the code are available from the Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois, 60478-5795, 708/799-2300.

**Section 870.60 Equipment Specifications**

- a) Tie materials shall be capable of resisting a force of 3,150 pounds with no more than 2 percent elongation and shall withstand at least 4,725 pounds without failure. Strapping must meet the requirements of ASTM D3953.91 and cable must be a minimum 1/4 inch diameter galvanized 7 by 19 strand cable.
- b) Anchors. Anchor equipment and ties shall be weather resistant. Each anchor, when installed, shall be capable of resisting a working load at least equal to 3,150

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pounds in the direction of the tie plus a 50 percent overload (4,725 pounds) without failure. Double headed anchors must resist the vertical and horizontal loads. Failure shall be considered to have occurred when the point of connection between the tie and anchor moves more than two inches at 4,725 pounds in the vertical direction. Those anchors that are designed to be installed so that the loads on the anchor are other than direct withdrawal shall be designed and installed to resist an applied design load of 4,725 pounds at 45 degrees from horizontal without displacing the anchor more than 3 inches horizontally at the point where the tie attaches to the anchor.

**Section 870.70 Administrative Hearings**

Any request for a hearing and the conduct for such hearing shall be governed by the Illinois Department of Public Health Rules of Practice and Procedures in Administrative Hearings (77 Ill. Adm. Code 100).

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**Section 870.TABLE A Soil Class Marking of Anchors**

## SOIL CLASS MARKING OF ANCHORS

Soil Class	Soil Description	Torque Probe Value*	Anchor Marking
1	Sound hard rock.	N/A	C-1
2	Very dense and/or cemented sands, coarse gravels/cobbles, preloaded silts, clays and coral.	550 inch pounds and up	C-2
3	Medium dense coarse sands, sandy gravels, very stiff silts and clays	350 to 550 inch pounds	C-3
4A	Loose to medium dense sands, firm to stiff clays and silts, alluvial fill.	276 to 350 inch pounds	C-4A
4B	Loose sands, firm clays and silts, alluvial fill.	175 to 275 inch pounds**	C-4B

Note: Ground anchors are designed for different soil classifications, longer models for loose soils, shorter models for harder soils. Prior to installing any ground anchor, the soil must be tested with a soil test probe in order to match approved ground anchors with site soil class. Also be advised that the manufacturers recommend different size stabilizer plates for the different soil classes.

\* A soil test probe is a device for measuring the torque value of soils to assist in evaluating the holding capability of the soils in which the anchor is placed. The soil test probe has a helix on it. The overall length of the helical section is 10.75 inches; the major diameter is 1.25 inches; the minor diameter is 0.81 inches; the pitch is 1.75 inches. The shaft must be of suitable length for anchor depth.

\*\* Below these values, a professional engineer should be consulted.

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- 1) Heading of the Part: Illinois Modular Dwellings and Mobile Structures Code
- 2) Code Citation: 77 Ill. Adm. Code 880
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
880.5	New Section
880.10	Amendment
880.15	New Section
880.20	Amendment
880.30	Amendment
880.40	Amendment
880.50	Amendment
880.60	Repealed
880.65	New Section
880.70	Amendment
880.APPENDIX A	Repealed
- 4) Statutory Authority: Illinois Manufactured Housing and Mobile Safety Act [430 ILCS 115]
- 5) A Complete Description of the Subjects and Issues Involved: The rules describe the requirements for the design, approval and construction of modular dwellings and commercial mobile structures. The existing rules establish the requirements for the design, approval and construction of modular dwellings and commercial mobile structures. The proposed amendments will utilize more current building codes, help defray costs of the program and insure that the units are properly inspected as previously performed by the Department prior to budget constraints.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These rules do not require any new or additional expenditures by units of local government.

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- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules by writing, within 45 days after this issue of the *Illinois Register*, to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043  
E-mail: rules@idph.state.il.us

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The manufacturers of the modular dwellings and commercial mobile structures.
- B) Reporting, bookkeeping or other procedures required for compliance: Proper reporting by the authorized inspection agencies.
- C) Types of professional skills necessary for compliance: The authorized inspection agencies will be required to meet the professional skills listed in the proposed rules. The agencies which the Department currently deals with have the appropriate personnel.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1999

The full text of the proposed amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER q: MOBILE HOMES

## PART 880

ILLINOIS MODULAR DWELLINGS MANUFACTURED HOUSING AND  
MOBILE STRUCTURES CODE

## Section

<u>880.5</u>	<u>Scope</u>
880.10	Definitions
<u>880.15</u>	<u>Safety Codes Incorporated by Reference</u>
880.20	Plan Approval
880.30	Seals and Code Compliance Certificates
880.40	Fees
880.50	Inspections
880.60	Applicable Safety Codes ( <u>Repealed</u> )
<u>880.65</u>	<u>Approval of Inspection Agencies</u>
880.70	Enforcement
880.APPENDIX A	Amendments to the Adopted Codes ( <u>Repealed</u> )

AUTHORITY: Implementing and authorized by the Illinois Manufactured Housing and Mobile Home Safety Act [430 ILCS 115/1-15].

SOURCE: Filed May 13, 1975, effective May 23, 1975; amended at 3 Ill. Reg. 27, p. 100, effective July 6, 1979; codified at 8 Ill. Reg. 17514; Part repealed; new Part adopted at 9 Ill. Reg. 12839, effective September 1, 1985; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 880.5 Scope**

- a) Applicability. This Part governs the design, construction, and installation of modular dwellings and mobile structures intended for installation in Illinois or any state that accepts the Department's approval of modular dwellings and mobile structures through a reciprocal agreement. Modular dwellings and mobile structures shall not be located in Illinois unless they have been approved pursuant to the Illinois Manufactured Housing and Mobile Home Safety Act.
- b) The construction of single family mobile structures known as "manufactured homes" is not regulated under this Part, but is regulated by the federal Department of Housing and Urban Development under the National Manufactured Housing

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and Safety Standards Act of 1974 (federal Act) (42 USC 5401). Units regulated under the federal Act are identified by a red emblem on the exterior of each section at the floor level opposite the towing hitch. Section 604(d) of the federal Act prohibits any state or political subdivision from enforcing more stringent construction standards.

- c) The construction of commercial modular structures is not regulated under this Part. The Department has not been granted statutory authority to regulate the construction of such structures; however, local jurisdictions may regulate the construction of commercial modular structures.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.10 Definitions**

- a) "Act" means the Illinois Manufactured Housing and Mobile Home Safety Act, [430 ILCS 115] Ill. Rev. Stat. 1983, ch. 67½, par. 501 et seq.
- b) "Alteration" means the replacement, modification, or removal of any system or installations which may affect the structural, plumbing, electrical or mechanical system or the functioning of those elements thereof of units subject to this Act, but does not mean the replacement of free-standing appliances requiring plug-in to an electrical receptacle.
- e) "Approved Inspection Agency" ~~"Authorized Agency"~~ means any person, firm, corporation, unit of government or employee thereof that is authorized~~approved~~ ~~or hired~~ by the Department to perform inspections or evaluation services.

"Building System" means the method of constructing a type of modular dwelling or mobile structure described by plans, specifications, and other documentation that together establish a set of criteria meeting the building codes, standards, and other requirements of this Part for that type of building or building components, which may include structural, electrical, mechanical, plumbing, fire protection systems and other systems affecting health and safety.

"Department" means the Illinois Department of Public Health.

"Manufactured Home" means a structure that is transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and

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that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. These units previously were known as "mobile homes". The construction of these units is regulated by the federal Department of Housing and Urban Development.

- Ⓓ) "Mobile Structures" means a movable or portable unit that is 8 body feet or more in width and 32 body feet or more in length, constructed to be towed on its own chassis (comprised of frame and wheels) from the place of construction to another location or subsequent locations, subject to the provisions of Chapter 15, Article I (Size, Weight, and Load) of the Illinois Vehicle Code [625 ILCS 5/Ch. 15, Art. I], and connected to utilities for year round occupancy with or without a permanent foundation. The term shall include units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional capacity, and units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing. ~~means those units defined in the Act as "mobile homes."~~ The term shall include units designed for the purpose of housing more than one family, commercial units, industrial units and educational units. Single family units constructed in accordance with the Federal Manufactured Home Construction and Safety Standard (42 ~~USCU.S.C.~~ 5401) are not considered "mobile structures." These units are identified by a red emblem at the tailgate end of each unit.
- Ⓔ) "Model" means a specific floor plan of a unit that is to be constructed.
- Ⓕ) "Model Code Organization" means the International Code Council (ICC) of American Building Officials (CABO) or one of the three organizations that ~~which~~ comprise the International Code Council (ICC) of American Building Officials. These include the Building Officials and Code Administrators International, Inc. (BOCA), the Southern Building Code Congress International (SBCC) and the International Conference of Building Officials (ICBO).
- Ⓖ) "Model Group" means a series of models having the same structural components. Configurations such as two story, L-shaped and bi-level shall constitute separate model groups. Each different width of the above listed configurations constitutes a different model group.

"Modular Dwellings" means those units defined in the Act as "manufactured

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housing units". The term means a building assembly or system of building sub-assemblies, designed for habitation as a dwelling for one or more persons, including the necessary electrical, plumbing, heating, ventilating, and other service systems, which is of closed or open construction and, which is made or assembled by a manufacturer, on or off the building site, for installation, or assembly and installation, on the building site with a permanent foundation. [430 ILCS /115/2(i)] This term shall include both sectional and panelized structures and shall include individual rooms that meet the above criteria. Apartments, condominiums, hotel, and motel units shall be included as dwellings.

"Multiple Family Dwelling Unit" means a building or portion of a building containing more than two dwelling units.

- h) "Testing Agency" means an organization determined by the Department to be qualified by reason of facilities, personnel, experience, demonstrated reliability and independence of judgment to observe experimental testing in accordance with prescribed standards contained within the adopted codes in Section 880.15 ~~880.60~~ of this Part and prepares a report with the result of the test.
- h) "Variation to an Approved Model ~~approved model~~" means a change to the design of an approved model of one or more of the following types:
- 1) The extension or reduction in length of the home not to exceed ~~four (4)~~ feet.
  - 2) The relocation or addition of non-load bearing walls, resulting in modification of a maximum of 2 ~~which changes not more than two (2)~~ rooms of the model.
  - 3) The relocation of doors or windows within a room.
  - 4) Other changes that do not affect the plumbing, electrical, mechanical or structural integrity of the units, such as the reversal of the floor plan layout, the relocation of an electrical receptacle ~~by six inches, the addition of a built-in bookcase in a non-load bearing wall~~, or the installation of sliding closet doors instead of hinged doors.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.15 Safety Codes Incorporated by Reference**

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All modular dwellings and mobile structures constructed for location in Illinois shall conform to the following safety codes referenced or incorporated by reference in this Part.

- a) Accessibility. All modular dwellings and mobile structures shall meet the applicable requirements of the Illinois Accessibility Code (71 Ill. Adm. Code 400), promulgated by:

Capital Development Board  
401 South Spring Street  
Springfield, Illinois 62706  
217-782-2864

- b) Building

- 1) All one and two family modular dwellings and duplex mobile structures shall conform to the International Residential Code, 2003 Edition, published by:

International Code Council, Inc (ICC)  
5203 Leesburg Pike, Suite 600  
Falls Church, Virginia 22041-3401  
703-931-4533

Chapters 25 through 32 are excluded from the Department's adoption of the International Residential Code.

- 2) All multiple family modular dwellings and mobile structures other than duplex dwelling units shall conform to the International Building Code, 2003 Edition, published by:

International Code Council, Inc (ICC)  
5203 Leesburg Pike, Suite 600  
Falls Church, Virginia 22041-3401  
703-931-4533

- c) Electrical

- 1) All one and two family dwellings and duplex mobile structures shall conform to the International Residential Dwelling Code, 2003 Edition.

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- 2) All multiple family modular dwellings and mobile structures other than duplex dwelling units shall conform to the National Electrical Code, 2002 edition (NFPA 70-2002), published by:

National Fire Protection Association (NFPA)  
1 Batterymarch Park  
Quincy, Massachusetts 02269-7471  
800-344-3555

- d) Energy. All modular dwellings and mobile structures shall conform to the International Energy Conservation Code, 2003 Edition, published by:

International Code Council, Inc. (ICC)  
5203 Leesburg Pike, Suite 600  
Falls Church, Virginia 22041-3401  
703-931-4533

- e) Fire Safety

- 1) All modular dwellings and mobile structures shall comply with the applicable provisions of the Fire Prevention and Safety Code (41 Ill. Adm. Code 100) promulgated by:

Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703-4529  
217-785-4714

- 2) All long-term care, community residential alternative and child care facilities must comply with the Facilities Requiring Smoke Detectors Act [425 ILCS 10].

- 3) All dwelling units must comply with the Smoke Detectors Act [425 ILCS 60].

- f) Mechanical

- 1) All one and two family modular dwellings and duplex mobile structures shall conform to the International Residential Dwelling Code, 2003

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Edition, and the International Fuel Gas Code, 2003 Edition.

- 2) All multiple family modular dwellings and mobile structures shall conform to the International Mechanical Code and International Fuel Gas Code, 2003 Edition, published by:

International Code Council, Inc. (ICC)  
5203 Leesburg Pike, Suite 600  
Falls Church, Virginia 22041-03401  
703-931-4533

- g) Plumbing. All modular dwellings and mobile structures shall conform to the Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by:

Illinois Department of Public Health  
525 West Jefferson  
Springfield, Illinois 62761  
217-782-5830

- h) Schools. All mobile structures designed to be used as a classroom shall conform to the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 175) promulgated by:

Illinois State Board of Education  
100 North First Street  
Springfield, Illinois 62777  
217-785-8779

- i) Amendments to the Incorporated Codes

- 1) General Amendments

A) The requirements of the incorporated codes pertaining to the administration and enforcement of the codes shall not apply because this Part and the Act address those areas. All definitions remain unchanged, except that terms such as “building official” and “authority having jurisdiction” shall mean the Department.

B) The Department is responsible for regulating the portion of the modular dwelling unit and mobile structure constructed at the

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factory. The on-site assembly shall not cause the unit to be in violation of any of the incorporated or referenced codes. Such aspects as the location of the units, their foundations and the installation of on-site utilities shall be subject to regulation by the local jurisdiction.

C) The provisions of the incorporated codes are not intended to limit the appropriate use of materials, appliances, equipment or methods of design or construction not specifically prescribed by the incorporated codes. Research reports from a model code organization or nationally recognized testing agency approving the use of alternate materials or methods of construction shall be considered sufficient evidence of compliance with the requirements of the incorporated or referenced codes subject to the limitations and conditions of such written approval. All requests for approval of alternatives shall be submitted in writing to the Department. The Department shall respond to such requests in writing within 30 days after receipt of a written request.

D) No revisions to the applicable code and requirements shall apply retroactively. The Department shall notify all manufacturers and approved inspection agencies of all code changes. Previously approved units manufactured 180 calendar days after the effective date of these amendments shall obtain new plan approval prior to their construction.

2) Design Criteria. The following provisions shall apply to the design and construction of all modular dwellings and mobile structures:

A) Roofs shall be designed for a minimum live load of 30 pounds per square foot.

B) Horizontal wind pressure shall be considered as acting on the gross area of the vertical projection and shall be considered for design purposes as not less than 25 pounds per square foot to a height of 30 feet and 30 pounds per square foot for heights over 30 feet above grade.

C) Carpet or padding shall not be placed under any load bearing walls.

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- D) Ceiling material that is placed directly above top plates of bearing walls shall be of compressive strength capable of transmitting the required design loads without any type of failure to transmit the required ceiling and roof loads, or provisions shall be made to transfer the loads through material of sufficient strength.
- E) Modular dwellings and mobile structures shall be fastened together at the floor system and roof systems to minimize any movement between multiple units.
- F) The following design parameters shall be used for the energy criteria in the use of the International Energy Conservation Code for all modular dwellings and mobile structures:
- i) The winter design dry-bulb temperature shall be 4° Fahrenheit.
  - ii) The summer design dry-bulb temperature shall be 93° Fahrenheit.
  - iii) The summer wet-bulb temperature shall be 77° Fahrenheit.
  - iv) The degree days heating shall be 6800.
- j) Other Requirements. The incorporated codes listed in subsection (b)-(d) and (f) do not include amendments or editions made after the date specified.
- k) Availability. Copies of the incorporated codes are available for public inspection at the Illinois Department of Public Health, Division of Environmental Health, 525 West Jefferson Street, Springfield, Illinois 62761, 217-782-5830.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.20 Plan Approval**

- a) General Requirements. All manufacturers must obtain written approval from the Department for each model to be manufactured for location in Illinois prior to manufacturing the model unless the provisions for reciprocity are met. Written approval is not required for a variation to an approved model. Two copies of the ~~The~~ following must be provided for Department approval, along with the plan

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review fee specified in Section 880.40:

- 1) General information including:
    - A) the manufacturer's name, address and telephone number
    - B) the location of each manufacturing facility where the models will be manufactured
    - C) name or number that which identifies each model for which approval is requested
    - D) name of contact the person ~~whom the Department should contact~~ regarding the submittal ~~(two copies of these items);~~
    - E) name and address of the approved inspection agency employed by the manufacturer;
  - 2) Plans, specifications and test results as required by Section 880.20(b) ~~of this Part (two copies);~~
  - 3) Quality control manual containing the requirements of Section 880.20(c) ~~of this Part (two copies);4) ——— Plan review fee as specified in Section 880.40 of this Part.~~
- b) Construction Details. Plans and specifications shall be drawn to scale and indicate the following minimum details:
- 1) Building Requirements
    - A) General
      - i) Floor Plan of each unit with all dimensions specified.
      - ii) Complete fastening schedule.
      - iii) Stair details.
      - iv) Moisture content of lumber.

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- v) Size of all doors and windows including installed height of egress window.
  - vi) Light and ventilation schedule.
  - vii) Size and location of crawl space and attic accesses.
  - viii) Safety glazing specifications.
  - ix) Flashing for doors and windows.
  - x) Recommended foundation detail and crawl space ventilation.
  - xi) Design loads for floor, walls, and roof systems.
  - xii) Method of fire stopping openings.
  - xiii) Pertinent engineering calculations and/or test data reports on structural members, splices and connections.
  - xiv) Research reports from a model code organization indicating the approval of any material which is proposed to be used but not specifically approved in one of the adopted codes.
- B) Floor System
- i) Spacing, size, grade and species of framing material including the allowable stress and modulus of elasticity.
  - ii) Lateral and end support.
  - iii) Location and size of notches and holes.
  - iv) Method of framing around openings such as stairways, plumbing pipes, heating components and wheel wells.
  - v) Size and type of subfloor/underlayment and panel identification index and method of installation.

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- vi) Type and "R" value of floor or foundation insulation.
  - vii) Type of vapor barrier.
- C) Wall System
- i) Ceiling height.
  - ii) Spacing, grade and species of framing materials.
  - iii) Typical framing details of corners, doors, windows, etc.
  - iv) Fire separation method and material between dwelling units and between dwelling unit and garage.
  - v) Method of corner bracing.
  - vi) Type of exterior sheathing and siding.
  - vii) Type of finished interior material and flame spread.
  - viii) Type and "R" value of insulation.
  - ix) Type of vapor barrier.
- D) Roof/Ceiling System
- i) Spacing, grade and species of framing material.
  - ii) Size and type of roof sheathing, panel index, and method of installation.
  - iii) Pitch of roof.
  - iv) Method and amount of attic ventilation.
  - v) Type and "R" value of insulation.
  - vi) Type of vapor barrier.

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- vii) Type of roof covering and underlayment.
  - viii) Type and flame spread of ceiling finish material.
  - ix) Detail and calculations of ridge beams.
  - x) Test results of trusses if evidence of design approval by a registered engineer or architect is not provided.
- 2) Plumbing
- A) Schematic of water supply, drainage and vent layout including size and type of all pipes, fittings, cleanouts and valves.
  - B) Method and interval of supporting all pipes.
  - C) Maximum trap to vent distances.
  - D) Slope of drainage and vent pipes.
  - E) Location of vacuum breakers, relief valves and air chambers.
- 3) Electrical
- A) A schematic of the electrical system showing the location of all receptacles, lights, switches, junction boxes and panel boxes.
  - B) Type and location of ground fault circuit interrupters.
  - C) Type and location of smoke detectors.
  - D) Size of all feeders and branch circuits.
  - E) Method and detail for grounding service equipment.
  - F) Typical load calculations for service and feeders.
  - G) Size and rating of main disconnect/overcurrent protective devices.
  - H) Protection and support of conductors.

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- I) Method of mounting fixtures and wiring installation.
  - J) Method of interconnection between two or more separately towable components and location of connections.
- 4) Mechanical
- A) Location and clearances of all mechanical equipment and appliances.
  - B) Manufacturers listing or labeling of all equipment.
  - C) Size and location of all registers.
  - D) Drawing of the duct system including the supply, return and combustion air with indication of the size, gauge and type of material and the method of support.
  - E) Location of flues, vents, clearances from air intakes and other vents and flues.
  - F) Venting of appliances.
  - G) Heat loss and heat gain calculations.
  - H) Drawings of the fuel supply system indicating the type and size of pipe, method and interval of support and required valves.
- 5) Verification of plans
- A) The plans for all multiple family ~~modular dwellings manufactured housing units~~ and mobile structures ~~other than duplex units~~ shall bear the seal of an Illinois registered architect or equivalent if required by the Illinois Architecture Act ~~[225 ILCS 305] (Ill. Rev. Stat. 1983, ch. 111, par. 1201 et seq.)~~.
  - B) When designs cannot be verified by the ~~incorporated or referenced adopted~~ codes of Section ~~880.15 880.60 of this Part~~ or by calculations, tests of the components in question must be

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conducted by an independent testing agency.

- 6) Simplification of submittal  
A complete set of plans for each separate model is not required if reference is made to the manufacturer's standard construction plans and if plans and specifications are provided for the specific changes from those standards.
- c) Quality Control Procedures
  - 1) The manufacturer shall develop a procedure to assure that all operations at the plant are performed to conform to the requirements of this Part. Such procedures shall be contained in a quality control manual which shall be available at the plant. As a minimum the following shall be contained in this manual:
    - A) Material receiving inspection procedure.
    - B) Material storage and stock rotation procedure.
    - C) Description of construction stages with the title of the person responsible for each phase.
    - D) Detailed list of all items that shall be inspected.
    - E) Test procedures for testing the plumbing, fuel supply and electrical systems.
    - F) Delivery procedures.
    - G) Recordkeeping procedures, including the procedures for ordering, assigning and filing the Department seal and compliance certificate and the approved inspection agency's report.
  - 2) The manufacturer shall update the manual to reflect any changes in the operation. These revisions shall be submitted to the Department ~~in~~ duplicate.
- d) Evidence of Plan Approval

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- 1) If, after a review of the required plans, specifications and supporting information required in Section 880.20 ~~of this Part~~, it is determined that the material is in compliance with this Part, an approval shall be issued to the manufacturer by the Department in writing. A copy of this approval will be sent to the approved inspection agency employed by the manufacturer. This approval shall specify the particular models ~~that which~~ are approved and the location of the factory where construction of the units is approved. The manufacturer shall keep one ~~(1)~~ set of approved plans at the manufacturing facility. ~~There shall be two types of approval issued, provisional and final. A) — Provisional approval shall be granted if the review indicates items that are deficient but they are determined by the Department to be minor in nature. Items that are "minor in nature" are those deficiencies that would have little, if any, affect on the safety of the occupants of the home if not corrected. Examples include a slightly undersized window, a plumbing vent that is not located within the proper distance from the fixture and an electrical receptacle that is not properly located. Such items shall be clearly specified as conditions of the approval. The deficiencies must be corrected both in the plan submittal package and the actual construction of the units. Provisional approval shall expire on a specified date within six (6) months from the date of issuance. B) — Only provisional approval shall be granted to a new manufacturer until an inspection of the manufacturing facility by the Department or an authorized agency has been performed. C) — Final approval shall be issued if the plan review of the model(s) indicates compliance with all aspects of this Part and the manufacturing facility has been inspected by the Department or an authorized agency and found to comply with the adopted codes in Section 880.60 of this Part.~~
- 2) The Department shall compile a list of all manufacturers approved to locate models in Illinois. The list shall be available to any person by contacting the Illinois Department of Public Health, Division of Environmental Health Engineering and Sanitation, 525 535 West Jefferson, Springfield, Illinois 62761, 217-782-5830 62701.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.30 Seals and Code Compliance Certificates**

- a) Requirements. Each modular dwelling manufactured housing unit and mobile structure manufactured or offered for sale or rent for location in Illinois shall bear

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an Illinois seal as required by the Act unless the unit bears a seal from a state which has a reciprocity agreement with this State. The approved inspection agency must also place a label of approval on the finished unit and provide a copy of the inspection report of the structure to the manufacturer. The seal and label shall be placed on the unit before it is shipped from the plant. A code compliance certificate is required for all units manufactured or offered for sale or rent for location in Illinois.

- b) Acquisition. Seals and code compliance certificates shall be issued to an approved a manufacturer, upon request, after written approval as specified in Section 880.20(d) ~~of this Part~~ is obtained from the Department and the required fees specified in Section 880.40 ~~of this Part~~ are submitted.
- c) Location of Seal and Inspection Agency's Label. The Illinois seal and the label of the approved inspection agency that inspected the structure shall be placed on the electrical panel box of the modular dwelling manufactured housing unit or mobile structure. Only one Illinois seal and one inspection agency label is required per each complete modular dwelling ~~unit~~ or ~~totally assembled~~ mobile structure, regardless of the number of sections that constitute the unit. A seal and label shall be required for each apartment unit, each half of a duplex unit and each motel room.
- 1) If an electrical panel box is not provided by the manufacturer, the seal and label shall be placed on the inside of the cabinet door under the kitchen sink.
  - 2) Upon receipt of a written request from a manufacturer, the Department shall grant permission to locate the seal and label in another specific location if the seal and label cannot be located in either of the above specified locations ~~accordance with Section 880.30(e)(1) of this Part.~~
- d) Code Compliance Certificate.
- 1) Each code compliance certificate provided by the Department consists of four identical forms. Within ~~thirty (30)~~ days from the shipment of the modular dwelling manufactured housing unit or mobile structure from the plant, the manufacturer shall complete and forward the white copy of the certificate to the Department. The manufacturer ~~He~~ shall keep the yellow copy, distribute the blue copy to the approved inspection agency dealer and the pink copy to the owner of the manufactured unit.

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- 2) This certificate shall contain the following information:
- A) Name of the manufacturer.
  - B) Location of manufacturing facility.
  - C) Manufacturer's serial number.
  - D) Model name or number.
  - E) Department approval number. If the model is a variation to an approved model, two copies of the floor plan of the approved model shall be submitted to the Department with the minor changes indicated in red.
  - F) State seal number assigned to the unit.
  - G) Final location of structure including street address if known.
  - H) Name and location of dealer.
  - I) Date manufactured.
  - J) Signature of manufacturer's authorized representative.
  - K) Name of the inspection agency that inspected the structure.
  - L) Dates of inspection by the approved inspection agency.
- e) Lost or Damaged Seals or Code Compliance Certificates. If a seal or code compliance certificate becomes lost or damaged, the Department shall immediately be notified in writing by the manufacturer. If possible, the assigned number shall be indicated. All damaged seals or code compliance certificates or those unused from a manufacturer who ceases business in Illinois shall be returned to the Department but no refund shall be granted.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.40 Fees**

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- a) All fees shall be in the form of a check, certified check or money order payable to the Illinois Department of Public Health.
- b) A schedule of fees is established as follows:
  - 1) Plan Review
    - A) A fee of \$150.~~00~~ per model group is required for the Department's review of the required plans and specifications.
    - B) In addition to the model group fee, each model shall require a fee of \$25.~~00~~.
    - C) There shall be no fee required for variations to an approved model as defined in Section 880.10(m) of this Part.
  - 2) Seal and Code Compliance Certificate. The fee for each seal shall be \$25.~~00~~ and fee for each code compliance certificate shall be \$25.~~00~~.
  - 3) Plant Inspections. Out-of-state manufacturers shall reimburse the Department for ~~the~~ travel expenses ~~of the inspector~~ to and from the inspector's headquarters for an inspection by Department staff. The Illinois Travel Regulations (80 Ill. Adm. Code 2800) shall serve as the schedule for the reimbursable expenses. In the case where more than one manufacturing facility is inspected during an out-of-state trip, the total travel expenses incurred will be divided equally by the number of facilities inspected. The plant inspection fee shall be required to be paid within ~~ten~~ (10) days of the date of receipt of the bill.
  - 4) Inspection Agencies
    - A) The initial application fee for approval of an inspection agency shall be \$500.
    - B) The annual renewal fee for each calendar year shall be \$300, which shall be due January 1 of each year.
  - 5) Annual Review of Inspection Agencies. The Department shall conduct an annual evaluation of each inspection agency at a factory or the agency's

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office. The inspection agency shall reimburse the Department for the allowable expenses to and from the Department's headquarters associated with the annual evaluation. Travel regulations promulgated by the Department of Central Management Services/Governor's Travel Control Board at (80 Ill. Adm. Code 2800) shall serve as the schedule for the reimbursable expenses. In the case where more than one inspection agency is reviewed, the total travel expenses incurred will be divided equally by the number of agencies reviewed. The travel expenses shall be paid within 10 days after receipt of the bill.

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.50 Inspections**

- a) Approved Inspection Agency. After January 1, 2004, all modular dwellings and mobile structures located in Illinois shall be inspected at the factory by an approved inspection agency. Each manufacturer shall submit to the Department, in writing, the name of the inspection agency that will be conducting its inspections. Any changes to this information shall be provided to the Department in writing. The Department shall maintain a list of approved inspection agencies, which shall be available to interested individuals upon request.
- b) Responsibility. The inspection agency shall be responsible for review of manufacturer plans, documents and procedures for completeness and compliance with the requirements of this Part. The inspection agency shall then conduct inspections to ensure compliance with the plans and procedures. The inspection must occur when all portions of the construction can be inspected.
- c) Monitoring. Representatives of the Department shall conduct periodic inspections to monitor the inspection agencies and the manufacturers for compliance with the Act and this Part.
- d) Violations. All violations cited at the factory shall be corrected prior to placing the Illinois seal and inspection agency's label on the structure. Violations discovered at the final location shall be corrected within 30 days after written notification, except that serious violations that threaten the safety of the occupants of the structure shall be corrected within 5 days after notification. The Department may require the manufacturer to remove, at the manufacturer's expense, building materials that prevent the Department from inspecting the entire unit. Such removal will be requested only if the unit was constructed without the

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necessary approval or if plans for the unit were approved but items that can be inspected are not in accordance with approved plans.

- e) Factory Closing. If a manufacturer closes its operation, it shall notify the Department and the inspection agency in writing. Unused Illinois seals and code compliance certificates shall be returned to the Department when a factory closes.~~a) Authority. Representatives of the Department shall perform inspections necessary to assure compliance of manufactured housing units and mobile structures with the requirements of this Part and the Act. The manufacturer shall be responsible for correcting, within a specific period of time, any violations revealed as a result of an inspection. The specified period of time will depend upon the nature and severity of the violations (usually less than thirty (30) days). Any violations which pose an immediate hazard to the health of any occupants, such as faulty electrical wiring, must be corrected immediately. The Department shall have the authority to require the manufacturer to remove at his expense building materials which prevent the Department from inspecting the entire unit. Such removal can be requested only if the unit has been determined to be in violation of this Part or the Act. Examples would be if the unit was constructed without the necessary approval or if the plans for the unit were approved but items that can be inspected are not in accordance with the approved plans. b) Authorized Agency. The Department may approve or hire an authorized agency to inspect manufactured housing units and mobile structures. Such approval shall be based on an evaluation of the qualifications of agency personnel to perform the particular inspection and shall be in writing. All inspectors must have a minimum of a high school education and two years of experience in the building construction industry. c) Inactive Status. An approved manufacturer may request in writing to be placed on inactive status if he does not intend to manufacture any units for location in Illinois for a period of at least three (3) months. The Department will not perform routine inspections of the facility until written notice from the manufacturer is received indicating intent to produce units for location in Illinois. The manufacturer shall not manufacture any units for location in Illinois while on inactive status. It shall be the responsibility of the manufacturer to notify the Department in writing if the plant is to close permanently. d) If a manufacturer is not going to be open for business for more than three days, then the manufacturer must contact the Department prior to this time in order to avoid charges for any inspections attempted while the manufacturer was closed.~~

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 880.60 Applicable Safety Codes (Repealed)**

~~All manufactured housing units and mobile structures constructed for location in Illinois shall conform to the following adopted safety codes and the requirements contained in Appendix A.~~

- ~~a) **Accessibility.** The requirements of the Accessibility Standards Illustrated (71 Ill. Adm. Code 400) promulgated by the Capital Development Board, 401 South Spring Street, Springfield, Illinois 62706 shall be met for units within the scope of the standards.~~
- ~~b) **Building**~~
  - ~~1) All one and two family manufactured housing units and duplex mobile structures shall conform to the One and Two Family Dwelling Code, 1983 edition, published by the Council of American Building Officials (CABO), 1201 One Skyline Place, 5205 Leesburg Pike, Falls Church, Virginia 22041, Parts V, VI and VII shall be excluded from adopted by this Department.~~
  - ~~2) All multiple family manufactured housing units and multiple family mobile structure dwelling units shall conform to the BOCA Basic National Building Code, 1984 edition, published by the Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477.~~
  - ~~3) All mobile structures other than dwelling units shall comply with the Standard for Mobile Homes, 1974 edition, (NFPA No. 501B or ANSI A119.1) published jointly by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269 and the American National Standard Institute, Inc., 1430 Broadway, New York City, New York 10018.~~
- ~~e) **Electrical.** All manufactured housing units and mobile structures shall conform to the National Electrical Code, 1984 edition, (NFPA 70-1984) as published by the the National Fire Protection Association (NPPA) Batterymarch Park, Quincy, Massachusetts 02269.~~
- ~~d) **Energy.** All manufactured housing units and mobile structures designed as dwellings shall conform to the Model Energy Code, 1983 edition, as published by the Council of American Building Officials (CABO), 1201 One Skyline Place,~~

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~~5205 Leesburg Pike, Falls Church, Virginia 22041.~~

- e) ~~Fire Safety. All manufactured housing units and mobile structures shall comply with the applicable provisions of the Fire Prevention and Safety Code, (41 Ill. Adm. Code 100) promulgated by the Office of the State Fire Marshal, 3150 Executive Park Drive, Springfield, Illinois 62706.~~
- f) ~~Mechanical. All multiple family manufactured housing units shall conform to the BOCA Basic National Mechanical Code, 1984 edition, as published by the Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477. One and two family dwelling units shall conform to the mechanical requirements contained in the One and Two Family Dwelling Code, 1983 edition.~~
- g) ~~Plumbing. All manufactured housing units and mobile structures shall conform to the Illinois Plumbing Code (77 Ill. Adm. Code 890) promulgated by the Illinois Department of Public Health, 535 West Jefferson, Springfield, Illinois 62761.~~
- h) ~~Schools. All mobile structures designed to be used as a classroom shall conform to the Efficient and Adequate Standards for the Building Specifications for the Construction of Schools (Standard A-156) (23 Ill. Adm. Code 175) promulgated by the Illinois State Board of Education, 100 North First, Springfield, Illinois 62777.~~
- i) ~~Other Requirements.~~
  - 1) ~~The adopted nationally recognized codes listed above do not include amendments or editions made after the date specified.~~
  - 2) ~~Local governmental units may enforce requirements in accordance with Section 4 of the Act.~~
- j) ~~Availability. Copies of the adopted codes are available for public inspection at the Illinois Department Public Health's Central Office identified in Section 880.20(d)(2) of this Part.~~

(Source: Repealed at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.65 Approval of Inspection Agencies**

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a) Initial Approval Procedures

- 1) Application Requirements. An inspection agency seeking approval shall submit a written application to the Department that shall include the following items:
  - A) The original articles of incorporation of the agency and all subsequent amendments to those articles, as filed in the state of incorporation.
  - B) The bylaws of the organization, if any.
  - C) The names, addresses, and business interests of all members of the board of directors and of management personnel.
  - D) Certification by the agency that:
    - i) Its board of directors and technical personnel can exercise independence of judgment;
    - ii) Its activities will result in no financial benefit to the agency via stock ownership, or other financial interests in any producer, supplier, or vendor of products involved, other than through standard published fees for services rendered.
  - E) Names, years of experience, state in which professionally registered, and other qualifications of the directors of inspection programs.
  - F) Names and years of experience of employees practicing in the following disciplines: architecture, structural engineering, mechanical engineering, electrical engineering, fire protection, and other branches of professional engineering; the states in which each is registered; and the services each performs.
  - G) An organizational chart showing management and supervisory persons, including the number of graduate engineers and architects and the names of all consulting engineers or architects, designating which are full-time and which are part-time. The personnel requirements of ASTM E-54, Criteria for Agencies in System

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Analysis and Compliance Assurance for Manufactured Buildings, shall be met.

- H) Number and location of factory inspectors, supervisors, and other technicians, including evaluators of factory inspectors and the qualifications of each specialized group, including records of work experience, licenses held, and other pertinent qualifications. Descriptions shall be included of the type of work each group and each technician is expected to perform.
- I) Statement from the agency to assure that all inspectors, evaluators, and other technicians are properly trained to do each job assigned to them.
- J) An outline of the general procedures for supervision of inspectors and evaluators, including checking and evaluation of their work.
- K) Names of all engineers, technicians, and other personnel who will perform services for the organization but who are not employees of the organization and the supervisory and other relationships that each will have to the agency.
- L) A list of the types of products, components, equipment, structures, and other items that the organization has evaluated, tested, or inspected, and the number of years of experience the organization has had with each.
- M) A list of the types of codes, standards, specifications, and requirements with which the organization has had experience in providing inspection or testing services, and the number of years of experience with each.
- N) Description of the recordkeeping system the agency proposes to use with particular regard to availability of records to the Department and the capacity to send reports to the Department.
- O) Description of the frequency with which the agency performs inspections or evaluations.
- P) List of the states in which the agency is now approved to inspect or

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evaluate modular dwellings, mobile structures or building components for compliance with approved building systems.

2) Incomplete or incorrect applications will not be accepted for processing and will be returned to the applicant within 30 days after receipt by the Department, with a written explanation of the reasons why the application was not acceptable to the Department.

3) Complete applications will be accepted for processing, and the applicant will be notified in writing of that acceptance within 30 days after the date the application is received by the Department.

A) The Department shall conduct an evaluation either at the agency's office or at a manufacturing facility within 30 days after the application is determined to be in compliance with this Part, but prior to the issuance of the initial approval.

B) The Department shall approve inspection agencies that meet the requirements of this subsection (a) and that the Department finds qualified to perform the functions proposed to be delegated to them.

C) In the event the evaluation of the agency's office or factory finds those facilities to be inadequate to meet the requirements of this Part, the Department shall return the complete application to the applicant with a written explanation of the reasons for disapproval.

4) Approved inspection agencies shall be notified by the Department in writing. The approval letter will state the specific functions that the applicant has been approved to perform. The initial approval shall expire December 31 of the year following the date of the approval letter.

b) Annual Approval of Inspection Agencies

1) The Department shall conduct an annual evaluation of each approved inspection agency for the purpose of evaluating the performance of each agency in monitoring the manufacturer's compliance assurance program.

2) These evaluations may be conducted at any reasonable time, with or without prior notice, at either the inspection agency's office or at a

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manufacturer's place of business,

- 3) Each evaluation shall investigate the adequacy of all engineering evaluations of plans, specifications and test results, testing, and analysis of compliance assurance programs, procedures used by the agency in the monitoring activity, including personnel selection, training, supervision, reporting accuracy, use of approved documents, evaluation of reports, decision criteria, and all other activities that measure the effectiveness of the manufacturer's program.
- 4) A report of evaluation results will be compiled and maintained by the Department. A copy of the report will be sent to the inspection agency, along with notification of any deficiencies determined during the evaluation and the means and time frame for correction of the deficiencies.
- 5) If deemed necessary by the Department, an agency's approval may be suspended or revoked as provided in subsection (c).

c) Suspension and Revocation

1) Grounds

- A) The Department may suspend or revoke its approval of any inspection agency if the approval was issued on the basis of incorrect information or issued in violation of the Act or this Part.
- B) If the Department determines that the inspection agency has failed to perform its functions properly, the Department shall notify the agency and arrange for an informal presentation of views. If an informal presentation of views fails to achieve resolution, the Department shall notify the agency in writing of its intent to suspend or revoke the approval.

2) Procedures in Event of Suspension or Revocation

- A) General. If the Department suspends or revokes the approval of an inspection agency, the manufacturers being evaluated by the agencies shall be given notice in writing after the disposition of any appeal of the suspension or revocation.

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- B) Temporary Arrangement to Continue Manufacturing. After the suspension or revocation of any inspection agency, the Department, upon the request of any manufacturer affected, shall establish a temporary arrangement by which the manufacturer can continue to manufacture, sell, lease, deliver and install modular dwellings and mobile structures in accordance with the Act and this Part until the suspension or revocation is removed or arrangements are completed to utilize another approved inspection agency.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 880.70 Enforcement**

- a) Violations and Remedial Actions
- 1) Whenever the Department's authorized inspection agency determines that a structure constructed under this Part fails to conform to the requirements of this Part or that the approved compliance assurance program is not followed, the inspection agency shall notify the manufacturer of the existence of the violation. The manufacturer shall be provided the opportunity to correct the violation in a manner acceptable to the inspection agency. If the violation comes first to the attention of the Department, the Department shall notify the inspection agency so that it can carry out its responsibilities under this Section.
  - 2) If the manufacturer fails to successfully resolve the problem or correct the violation within 30 calendar days, the inspection agency shall notify the Department of the failure. The Department shall order the manufacturer to correct the violation.
  - 3) If a manufacturer fails to correct a violation within the period specified by the Department, that failure shall subject the manufacturer to the penalties provided by the law.
- b) Failure to comply with any provisions of this Part or the Act shall constitute sufficient grounds for suspension, revocation or refusal to grant approval to a manufacturer or an authorized inspection agency. The Department's Rules and Regulations of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) will govern such actions.

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(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 880.APPENDIX A Amendments to the Adopted Codes (Repealed)****a) General Amendments**

- 1) ~~The requirements to the adopted codes pertaining to the administration and enforcement of the codes shall not apply since this Part and the Act addresses those areas. All definitions remain unchanged except terms such as "building official" and "authority housing jurisdiction" shall mean the Illinois Department of Public Health.~~
- 2) ~~The Department is responsible for regulating the portion of the manufactured housing unit or mobile structure constructed at the factory. The on-site assembly shall not cause the unit to be in violation of any of the adopted codes. The local jurisdiction shall have the authority to regulate such aspects as the location of the units, their foundation and the installation of the on-site utilities.~~
- 3) ~~The provisions of the adopted codes are not intended to limit the appropriate use of materials, appliances, equipment or methods of design or construction not specifically prescribed by the codes. The approval in writing by the Building Officials and Code Administrators International, Inc., the Council of American Building Officials, the International Conference of Building Officials, the National Fire Protection Association, or the Southern Building Code Congress International of alternate material or methods of construction shall be considered sufficient evidence of compliance with the requirements of the adopted codes, subject to the limitations or conditions of such written approval. All requests for approval shall be in writing to the Department. The Department shall respond to such requests in writing within sixty (60) days of receipt of a written request.~~

**b) The following provisions shall apply to the design and construction of all manufactured housing units:**

- 1) ~~Roofs shall be designed for a minimum live load of 30 pounds per square foot.~~
- 2) ~~Horizontal wind pressure shall be considered as acting on the gross area of the vertical projection and shall be considered for design purposes as not less than 25 pounds per square foot to a height of 30 feet and 30 pounds~~

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~~per square foot for heights over 30 feet above grade.~~

- ~~3) The manufacturer must comply with the requirements for seismic loads, frost depth and termite infestation specified by the adopted building codes for the area of the State the unit is expected to be located during the design, construction and installation of the unit.~~
  - ~~4) Carpet or padding shall not be placed under any bearing walls.~~
  - ~~5) Ceiling material which is placed directly above top plates of bearing walls shall be of compressive strength capable of transmitting the required design loads without any type of failure to transmit the required ceiling and roof loads or provisions shall be incorporated to transfer the loads through material of sufficient strength.~~
  - ~~6) Manufactured housing units shall be fastened together at the floor system and roof system to prevent any movement.~~
- e) In the use of the Model Energy Code, the following design parameters shall be used for all manufactured housing units:
- ~~1) The winter design dry bulb temperature shall be 4° Fahrenheit,~~
  - ~~2) The summer design dry bulb temperature shall be 93° Fahrenheit,~~
  - ~~3) The summer design wet bulb temperature shall be 77° Fahrenheit,~~
  - ~~4) The degree days heating shall be 6800.~~

(Source: Repealed at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Manufactured Home Installer Course Accreditation Code
- 2) Code Citation: 77 Ill. Adm. Code 885
- 3) 

<u>Section Numbers</u>	<u>Proposed Action</u> :
885.10	Repealed
885.20	Repealed
885.30	Repealed
885.40	Repealed
885.50	Repealed
- 4) Statutory Authority: Authorized by and implementing the Illinois Manufactured Home Installers Act [430 ILCS 120]
- 5) A Complete Description of the Subjects and Issues Involved: These rules are being repealed and replaced with new proposed rules. The Manufactured Home Installer Course Accreditation Code is to be included with the proposed Manufactured Home Installation Code
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference No
- 9) Are there any Other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not require additional expenditures by units of local government.
- 11) Time, Place and Manner in which Interested Persons May Comment on this Rulemaking:  
Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

(E-mail: rules@idph.state.il.us)

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: This repealer will not have an impact on small businesses.
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: This repealer will not create any new requirements.
- C) Types of Professional Skills Necessary for Compliance: No professional skills are required for compliance.

13) Date of regulatory agenda on which this rulemaking was summarized: January 2002

The full text of the proposed repealer begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER q: MOBILE HOMES

## PART 885

MANUFACTURED HOME INSTALLER COURSE ACCREDITATION CODE **(REPEALED)** |

## Section

885.10	Definitions
885.20	Incorporated and Referenced Materials
885.30	Accreditation of Manufactured Home Installer Course
885.40	Responsibilities of Accredited Manufactured Home Installer Courses
885.50	Accredited Manufactured Home Installer Course Curriculum

AUTHORITY: Implemented and authorized by the Illinois Manufactured Home Installers Act [430 ILCS 120].

SOURCE: Adopted at 25 Ill. Reg. 8297, effective June 25, 2001; repealed at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 885.10 Definitions**

"Act" means the Illinois Manufactured Home Installers Act [430 ILCS 120].

"Department" means the Illinois Department of Public Health.

"Training hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations and/or practical, hands-on instruction.

**Section 885.20 Incorporated and Referenced Materials**

- a) Incorporations by Reference
  - 1) The following standards, regulations, and laws are incorporated in this Part:
    - A) Regulations and guidelines of federal agencies:  
Transportation of Natural and Other Gas by Pipeline:

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Minimum Federal Safety Standards (49 CFR 192)  
United States Department of Transportation, Office of Pipeline  
Safety  
400 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20590

## B) Standards of nationally recognized organizations:

National Fire Protection Association  
1 Batterymarch Park  
P.O. Box 9101  
Quincy, Massachusetts 02269-9101:

- i) National Electrical Code, 1999 Edition (NFPA 70-99)
- ii) Installation of Oil Burning Equipment, 1997 Edition (NFPA 31-97)
- iii) National Fuel Gas Code, 1996 Edition (NFPA 54-99)
- iv) Liquefied Petroleum Gas Code, 1998 Edition (NFPA 58-98)

- 2) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.
- 3) All citations to federal regulations in this Part concern the specified regulation in the 1997 Code of Federal Regulations, unless another date is specified.

## b) Referenced Materials

The following standards, regulations, and laws are referenced in this Part:

- 1) State of Illinois rules:
  - A) Manufactured Home Community Code (77 Ill. Adm. Code 860)
  - B) Illinois Manufactured Home Tiedown Code (77 Ill. Adm. Code 870)

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- C) Illinois Plumbing Code (77 Ill. Adm. Code 890)
- 2) State of Illinois statutes:
  - A) Illinois Mobile Home Park Act [210 ILCS 115]
  - B) Illinois Mobile Home Tiedown Act [210 ILCS 120]
  - C) Illinois Plumbing License Law [225 ILCS 320]

**Section 885.30 Accreditation of Manufactured Home Installer Course**

- a) An entity that offers or plans to offer a manufactured home installer course shall obtain Department accreditation for the course by submitting to the Department in writing the following information at least 60 days before the beginning of the course:
  - 1) The name, address, telephone number, and contact person for the entity providing the course.
  - 2) The course location and written documentation that the course provides facilities for classroom and field hands-on training of sufficient size to accommodate the maximum enrollment of the course.
  - 3) Beginning and ending dates for the course.
  - 4) A course schedule and syllabus.
  - 5) Student and instructor manuals for the course.
  - 6) Documentation of a principal instructor who shall be responsible for the organization of the course and oversight of the teaching of all course material. Guest instructors may be utilized as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course. The principal instructor shall have the following qualifications:
    - A) at least two years of education in building construction technology;  
or

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- B) two years of experience in managing a training program specializing in the installation of manufactured homes.
- 7) A final examination for the course that includes criteria for pass/fail. The course must require at least 70% correct on the final examination as a passing score.
- 8) An example of the certificate of course completion that includes the following information:
  - A) the name, address, and telephone number of the entity providing the course;
  - B) the name, dates of attendance at course, and indication of a passing grade for the student to whom the certificate is issued.
- b) The Department shall notify the course sponsor in writing whether the request for accreditation has been approved.
- c) For requests that are not approved, the Department's notification will include the reason for disapproval. The course sponsor may submit a revised request for accreditation in which items noted to be incomplete in the initial request are completed.
- d) The Department shall maintain and make available to the public a list of approved course sponsors.

**Section 885.40 Responsibilities of Accredited Manufactured Home Installer Courses**

- a) The entity offering an accredited training course shall be responsible for maintaining training course records and making such records available to the Department as necessary.
  - 1) Course records shall be retained at the address specified on the training program accreditation application, as modified, for a minimum of 3 years.
  - 2) The entity shall notify the Department in writing within 30 days:
    - A) after changing the address specified on the training course

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accreditation application; or

- B) transferring records to a new address.
- 3) The Department shall have the authority to enter, inspect and audit training facilities and to examine records to determine compliance with the Act and this Part.
- b) Training course records that shall be maintained include the following:
  - 1) All documents that demonstrate the qualifications of the principal instructor, as specified in Section 885.30(a)(6).
  - 2) Current curriculum/course materials and documents reflecting any changes made to these materials.
  - 3) A copy of the course final examination.
  - 4) Results of the course final examination and a record of each certified installer's course completion.
  - 5) Any other materials specified in Section 885.30 that have been submitted to the Department as part of the program approval.
- c) Within 30 days after course completion, entities offering accredited courses shall submit to the Department a list of installers completing a course.

**Section 885.50 Accredited Manufactured Home Installer Course Curriculum**

Each accredited manufactured home installer course shall provide instruction on how to install a manufactured home to the specifications of the manufacturer, *review the* Guidelines for the Installation of Manufactured Homes published by the Department, *and test the written and practical installation skills of the individual installer* (Section 15 of the Act). Each course shall consist of at least 10 training hours that include the following topics:

- a) The installer's responsibility to obtain a copy of the home manufacturer's setup manual to ensure proper setup of the home in accordance with the home's warranty.
- b) The inspection of the proposed site of the home prior to setup to ensure proper

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location.

- c) Ensuring that the proposed site has drainage away from the home, vegetation cleared from under the home, and vapor barriers provided.
- d) Support of the home by a foundation system in accordance with the design loads of the home, the existing soil load bearing capacity of the home location, the Illinois Mobile Home Park Act, the Manufactured Home Community Code, and local authority requirements.
- e) Safety consideration for the setup of a home.
- f) Proper leveling of the home and placement of piers or foundation walls in accordance with the home manufacturer's specifications.
- g) Proper anchoring in accordance with the Illinois Mobile Home Tiedown Act and the Illinois Manufactured Home Tiedown Code.
- h) The installation of the plumbing for the home in accordance with the Illinois Plumbing License Law and the Illinois Plumbing Code.
- i) The installation of the electrical system for the home in compliance with the National Electrical Code.
- j) The installation of the gas or oil utilities for the home in compliance with the requirements of the Installation of Oil Burning Equipment, National Fuel Gas Code, Liquefied Petroleum Gas Code, and the Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7040                      Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/1406(c)
- 5) A Complete Description of the Subjects and Issues Involved: The regulations at Section 100.7040 will be amended to provide that if a taxpayer has obtained a federal employer identification number (EIN), then it must include the EIN on Form NUC-1. If a taxpayer has not yet obtained a federal EIN, then the taxpayer must notify the Department within a reasonable time upon obtaining a federal EIN. Current Section 100.7040 requires taxpayers to wait until a federal EIN has been assigned before filing Form NUC-1, and then to file the Form NUC-1 within 15 days after the date the EIN is assigned. These current requirements will be eliminated.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.5050	New Section	27 Ill. Reg. 15050, 09/26/03
100.5040	Amendment	27 Ill. Reg. 17970, 12/01/03

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Brian Stocker  
Income Tax Attorney  
Illinois Department of Revenue

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-7055

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will provide the necessary guidance to small businesses.
  - B) Reporting, bookkeeping or other procedures required for compliance: No new requirements.
  - C) Types of professional skills necessary for compliance: No new skills are required for compliance.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2003

The full text of the proposed amendment begins on the next page:

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## NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

## Section

- 100.2000 Introduction  
100.2050 Net Income (IITA Section 202)

## SUBPART B: CREDITS

## Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))  
100.2101 Replacement Tax Investment Credit (IITA 201(e))  
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))  
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
100.2130 Investment Credit; High Impact Business (IITA 201(h))  
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))  
100.2150 Training Expense Credit (IITA 201(j))  
100.2160 Research and Development Credit (IITA 201(k))  
100.2163 Environmental Remediation Credit (IITA 201(l))  
100.2165 Education Expense Credit (IITA 201(m))  
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)  
100.2180 Credit for Residential Real Property Taxes (IITA 208)  
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)  
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))  
100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope

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- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES  
OCCURRING ON OR AFTER DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF  
INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

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Section	
100.2410	Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2470	Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480	Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490	Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

## SUBPART F: BASE INCOME OF INDIVIDUALS

Section	
100.2580	Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590	Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section	
100.2680	Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

Section	
100.3000	Terms Used in Article 3 (IITA Section 301)
100.3010	Business and Nonbusiness Income (IITA Section 301)
100.3020	Resident (IITA Section 301)

## SUBPART J: COMPENSATION

Section	
100.3100	Compensation (IITA Section 302)
100.3110	State (IITA Section 302)
100.3120	Allocation of Compensation Paid to Nonresidents (IITA Section 302)

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## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

## SUBPART M: ACCOUNTING

## Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

## Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in

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Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years  
(IITA Section 506)

100.5040 Innocent Spouses

## SUBPART O: COMPOSITE RETURNS

## Section

100.5100 Composite Returns: Eligibility  
100.5110 Composite Returns: Responsibilities of Authorized Agent  
100.5120 Composite Returns: Individual Liability  
100.5130 Composite Returns: Required forms and computation of Income  
100.5140 Composite Returns: Estimated Payments  
100.5150 Composite Returns: Tax, Penalties and Interest  
100.5160 Composite Returns: Credits for Resident Individuals  
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

## SUBPART P: COMBINED RETURNS

## Section

100.5200 Filing of Combined Returns  
100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns  
100.5205 Election to File a Combined Return  
100.5210 Procedures for Elective and Mandatory Filing of Combined Returns  
100.5215 Filing of Separate Unitary Returns  
100.5220 Designated Agent for the Members  
100.5230 Combined Estimated Tax Payments  
100.5240 Claims for Credit of Overpayments  
100.5250 Liability for Combined Tax, Penalty and Interest  
100.5260 Combined Amended Returns  
100.5265 Common Taxable Year  
100.5270 Computation of Combined Net Income and Tax  
100.5280 Combined Return Issues Related to Audits

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

## Section

100.7000 Requirement of Withholding (IITA Section 701)  
100.7010 Compensation Paid in this State (IITA Section 701)  
100.7020 Transacting Business Within this State (IITA Section 701)  
100.7030 Payments to Residents (IITA Section 701)

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100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section	
100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

Section	
100.7200	Reports for Employee (IITA Section 703)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section	
100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310	Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

Section	
100.9000	General Income Tax Procedures (IITA Section 901)
100.9010	Collection Authority (IITA Section 901)
100.9020	Child Support Collection (IITA Section 901)

## SUBPART V: NOTICE AND DEMAND

Section	
100.9100	Notice and Demand (IITA Section 902)

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SUBPART W: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section

- 100.9500 Access to Books and Records (IITA Section 913)
- 100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
- 100.9510 Taxpayer Representation and Practice Requirements
- 100.9520 Conduct of Investigations and Hearings (IITA Section 914)
- 100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section

- 100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section

- 100.9700 Unitary Business Group Defined (IITA Section 1501)

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100.9710 Financial Organizations (IITA Section 1501)  
100.9720 Nexus  
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA  
Section 1501)

## SUBPART CC: LETTER RULING PROCEDURES

## Section

100.9800 Letter Ruling Procedures

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which  
Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by  
Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84,  
effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at  
5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981;  
amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May  
20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843,  
effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at  
5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December  
29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399,  
effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8  
Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg.  
685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986;  
amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941,  
effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986;  
amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410,  
effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12  
Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25,  
1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307,  
effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13  
Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990;  
amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective  
June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency  
amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days;

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

**Section 100.7040 Employer Registration (IITA Section 701)**

Every employer required to deduct and withhold Illinois income tax must register with the Department of Revenue by filing Form NUC-1 Illinois Business Taxpayer Application for Registration. Each registration application of an employer that has been assigned a federal identification number must contain the employer's federal identification number. If an employer has not been issued a federal employer's identification number, the employer must notify the Department within a reasonable time after its federal employer's identification number has been issued. ~~If an employer has not received a federal employer's identification number, he should~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~obtain one before filing an NUC-1. The NUC-1 must then be filed with the Department within 15 days of the date the federal employer's identification number is assigned.~~

(Source: Amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Boiler and Pressure Vessel Safety
- 2) Code Citation: 41 Ill. Adm. Code 120
- 3) Section Numbers: 120.15                      Adopted Action:  
Amendment
- 4) Statutory Authority: Authorized and Implemented by Section 2 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2].
- 5) Effective Date of Amendments: January 13, 2004
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these adopted amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, 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 proposed Amendments published in the Illinois Register was: September 26, 2003; 27 Ill. Reg. 15022
- 10) Has JCAR issued a Statement of Objection to these Amendments?: 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? No changes were requested by JCAR.
- 13) Will these amendments replace any emergency amendments currently in effect? Yes
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: To increase the fee for Certificates of Inspection of boiler pressure vessels from \$35 to \$70.
- 16) Information and questions regarding these adopted amendments shall be directed to:

David Douin, Director  
Division of Boiler Pressure Vessel Safety

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENT

Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703-4259  
217/785-1006

The full text of the adopted amendment begins on the next page:

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED AMENDMENT

TITLE 41: FIRE PROTECTION  
CHAPTER I: STATE FIRE MARSHALPART 120  
BOILER AND PRESSURE VESSEL SAFETY

## SUBPART A: DEFINITIONS AND ADMINISTRATION

## Section

120.4	Foreward (Repealed)
120.7	Kindly Observe the Following Briefs and Avoid Unnecessary Inconvenience (Repealed)
120.10	Definitions
120.11	Incorporation of National Standards
120.15	Fees
120.20	Administration
120.30	Inspectors, Examinations, Certificate of Competency and Commission
120.41	Special Inspector Trainee (Repealed)

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

## Section

120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
120.105	Boiler Exemptions
120.200	New Installations of Pressure Vessels
120.205	Pressure Vessel Exemptions
120.300	Existing Installations of Power Boilers
120.400	Existing Installations of Miniature Boilers (Repealed)
120.500	Operation of Boilers and Pressure Vessels
120.600	Existing Installation of Pressure Vessels
120.700	General Requirements for all Boilers and Pressure Vessels (Repealed)
120.800	Nuclear Power Plant Components (Repealed)
120.900	Flame Safeguard Requirements and Incorporated Standards (Repealed)

## SUBPART C: REPAIR AND ALTERATION

## Section

120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
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## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED AMENDMENT

120.1010	Authorization to Repair Boilers and Pressure Vessels
120.1020	Issuance and Renewal of the Certificate
120.1030	Changes to Certificates of Authorization
120.1040	Quality Control Requirements
120.1041	Repair and Alteration Requirements

## SUBPART D: STATE SPECIALS

Section	
120.1100	Procedure for the Issuance of a State Special Permit

## SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section	
120.1200	Authorization for Repair of Safety & Safety Relief Valves
120.1210	Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
120.1220	Issuance and Renewal of the Certificate
120.1240	Changes to Certificates of Authorization
120.1250	Repairs to Safety and Safety Relief Valves
120.1260	Quality Control System
120.1270	Nameplates
120.1275	Field Repair
120.1280	Performance Testing of Repaired Valves
120.1285	Training of Valve Repair Personnel
120.1290	ASME "V", "UV" or National Board "VR" Certificate Holders

## SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section	
120.1300	Introduction
120.1301	Authority and Responsibility
120.1305	Organization
120.1310	Inservice Inspection Program
120.1320	Drawings, Design Calculations, and Specification Control
120.1325	Material Control
120.1330	Examination and Inspection Program
120.1335	Correction of Nonconformities
120.1340	Welding
120.1345	Nondestructive Examination

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED AMENDMENT

- 120.1350 Calibration of Measurement and Test Equipment
- 120.1355 Records
- 120.1360 Inspectors

- 120.APPENDIX A Operational and Maintenance Log
  - 120.EXHIBIT A Hot Water Heating Boilers
  - 120.EXHIBIT B Steam Heating Boilers
- 120.APPENDIX B Record of Welded Repair (Repealed)

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

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.

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

Section 120.15 Fees

As authorized by the Boiler and Pressure Vessel Safety Act, the Board hereby establishes the following fees to be collected for services rendered:

Examinations.....	\$30
Commissions	
New Issuance .....	\$25
Renewal.....	\$15
All Certificates of Inspection.....	<del>\$70</del> 35

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED AMENDMENT

## Inspections conducted by the Division

## High Pressure and High Temperature Water Boilers

Boilers without a manhole..... \$30

Boilers with a manhole..... \$60

## Low Pressure Steam and Water Boilers

Boilers without a manhole..... \$30

Boilers with a manhole..... \$60

Hot water supply boilers..... \$30

No more than \$120 shall be charged for one boiler in any one year.

## Pressure Vessels

Fees are based on the product of the overall length times the width or diameter of the vessel expressed in square feet.

50 sq. ft. or less ..... \$25

51 sq. ft. to 150 sq. ft..... \$50

over 150 sq. ft..... \$75

No more than \$120 shall be charged for any one pressure vessel in any one year.

Annual Statements (Owner-Users) ..... \$35 per vessel

## Miscellaneous

Witness a hydrostatic test..... \$100

## Joint reviews, audits, shop inspections

½ day ..... \$300

Full day..... \$500

Plus expenses, including travel and lodging.

(Source: Amended at 28 Ill. Reg. 1737, effective January 13, 2004)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Dog Training on Department-Owned or -Managed Sites
- 2) Code Citation: 17 Ill. Adm. Code 950
- 3) Section Number: 950.40                      Adopted Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].
- 5) Effective Date of Amendment: January 14, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 3, 2003; 27 Ill. Reg. 14759
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: A period was added at the end of the sentence in Section 950.40(e).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Amendments to this Part add additional areas to sites providing sporting dog training and open additional days for dog training on the Controlled Pheasant Unit at Jim Edgar Panther Creek State Fish and Wildlife Area.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENT

Jack Price, Legal Counsel  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809

The full text of the adopted amendment begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

TITLE 17: CONSERVATION  
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER b: FISH AND WILDLIFEPART 950  
DOG TRAINING ON DEPARTMENT-OWNED OR -MANAGED SITES

Section	
950.10	Statewide Regulations
950.20	Definitions
950.30	Permit Requirements
950.40	Dog Training Seasons and Regulations
950.50	Dog Training Regulations (Repealed)
950.60	Penalties, Future Rights/Appeal Procedures

AUTHORITY: Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].

SOURCE: Amendment filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10652; Part repealed, new Part adopted at 12 Ill. Reg. 1808, effective December 31, 1987; amended at 14 Ill. Reg. 13524, effective August 10, 1990; amended at 15 Ill. Reg. 11581, effective August 2, 1991; amended at 16 Ill. Reg. 11034, effective June 30, 1992; amended at 17 Ill. Reg. 13447, effective July 30, 1993; amended at 19 Ill. Reg. 11780, effective August 3, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 23 Ill. Reg. 8392, effective July 7, 1999; emergency amendment at 24 Ill. Reg. 14069, effective September 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 19184, effective December 18, 2000; amended at 26 Ill. Reg. 13882, effective September 5, 2002; amended at 28 Ill. Reg. 1743, effective January 14, 2004.

**Section 950.40 Dog Training Seasons and Regulations**

- a) Dog training is prohibited on Department sites except in designated areas.
- b) The use of horses for dog training purposes is prohibited except at the sites designated by (1).
- c) Only handguns and shotguns with blank cartridges shall be used on Department sites except shotguns with shot shells may be used only for shoot-to-retrieve training using domestic pigeons and/or captive-reared ring-necked pheasants, bobwhite quail, chukar partridge, and mallard ducks at the sites designated by (2).

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

- 1) Only shot shells with a shot size of No. 6 lead, tungsten-iron, tungsten-polymer, tungsten-matrix, No. 5 bismuth, No. 4 steel or tin, or smaller shall be used for shoot-to-retrieve dog training.
  - 2) Individuals participating in shoot-to-retrieve dog training are required to wear a cap and upper outer garment of solid and vivid blaze orange of at least 400 square inches.
  - 3) Individuals participating in shoot-to-retrieve dog training are required to wear a back patch issued at the site headquarters on the outside of the upper outer blaze orange garment.
- d) Dog training at the following sites will be open from September 1-March 31, except closed during site upland game season; additional exceptions in parenthesis:

Carlyle Lake Lands and Waters

Clinton Lake State Recreation Area

Edward R. Madigan State Park

Eldon Hazlet State Park (January 1-March 31, except north of Allen Branch open per statewide regulations)

Hamilton County Conservation Area

Hidden Springs State Forest

Horseshoe Lake State Park (closed during dove and archery deer seasons, except training is permitted on Mondays and Tuesdays during the controlled pheasant hunting season)

Horseshoe Lake State Park – Gabaret, Mosenthein, Chouteau Island Unit

I-24 State Habitat Area (area south and west of I-24 open only from October 1-March 31)

Iroquois County Wildlife Management Area

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF ADOPTED AMENDMENT

Jim Edgar Panther Creek State Fish and Wildlife Area (water dog training only is open all year; during the Controlled Pheasant Hunting Season, training is permitted on Mondays and Tuesdays on the Controlled Pheasant Hunting Unit only)

Kankakee River State Park

Kaskaskia River State Fish and Wildlife Area (water dog training only is open all year) (1)

Kickapoo State Park (1)

Lake Shelbyville – Eagle Creek State Park

Lake Shelbyville – Eagle Creek Wildlife Management Area

Lake Shelbyville – Kaskaskia and West Okaw Wildlife Management Area

Marseilles State Fish and Wildlife Area (closed Friday, Saturday, and Sunday during September, October and March)

Middle Fork Fish and Wildlife Management Area (1)

Peabody River King State Fish and Wildlife Area (West and South Subunits only; water dog training only is open all year)

Saline County Conservation Area

Sam Parr State Park

Sand Ridge State Forest (during the Controlled Pheasant season, training is permitted on Mondays and Tuesdays) (1)

Sangchris Lake State Park (water dog training is open all year)

Shabbona Lake State Park (closed during archery deer season)

Silver Springs State Fish and Wildlife Area

DEPARTMENT OF NATURAL RESOURCES

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Stephen A. Forbes State Fish and Wildlife Area

Ten Mile Creek Fish and Wildlife Area

Trail of Tears State Forest

Washington County Conservation Area

Weinberg-King State Park (1)

e) Dog training at the following sites will be allowed throughout the year. |

Banner Marsh Fish and Wildlife Area (closed 7 days before through end of waterfowl season)

Des Plaines Conservation Area (closed during site's upland game season)  
(1) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26) (1)

Randolph County Conservation Area

Rock Cut State Park

Snakeden Hollow State Fish and Wildlife Area (closed October 1 through the Central Zone Goose Hunting Season)

(Source: Amended at 28 Ill. Reg. 1743, effective January 14, 2004)

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Future Teacher Corps (IFTC) Program
- 2) Code Citation: 23 Ill. Adm. Code 2764
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2764.10	Amendment
2764.20	Amendment
2764.30	Amendment
2764.40	Amendment
- 4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52].
- 5) Effective Date of Amendments: January 25, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of these adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 19, 2003; 27 Ill. Reg. 14797
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposed and final version: The only changes made were nonsubstantive in nature.
- 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 any emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: ISAC annually reviews its rules in order to respond to market changes and client suggestions, to implement State and federal statutory amendments, to codify improvements due to technological advances, and to

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

clarify issues that have arisen during the previous year. We also are continuing an initiative to increase the level of standardization in procedures, format and terminology throughout our programmatic rules, in order to make them easier for our clients to use. In addition to making minor technical and grammatical changes throughout this Part, ISAC proposes the following substantive amendments:

These amendments implement Public Act 93-0021, which modified the existing ITEACH Teacher Shortage Scholarship Program to create the Illinois Future Teacher Corps (IFTC) Program. The rulemaking sets forth the applicant eligibility requirements, program procedures, and institutional procedures.

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

Thomas A. Breyer  
Deputy Program Officer  
Illinois Student Assistance Commission  
1755 Lake Cook Road  
Deerfield IL 60015  
847/948-8500  
email: [tbreyer@isac.org](mailto:tbreyer@isac.org)

The full text of the adopted amendments begins on the next page:

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

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

## PART 2764

ILLINOIS FUTURE TEACHER CORPS (IFTC) ~~ITEACH~~ TEACHER SHORTAGE  
SCHOLARSHIP PROGRAM

## Section

2764.10	Summary and Purpose
2764.20	Applicant Eligibility
2764.30	Program Procedures
2764.40	Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004.

**Section 2764.10 Summary and Purpose**

- a) *The Illinois Future Teacher Corps (IFTC) Program encourages academically talented Illinois students, especially minority students, to pursue teaching careers, especially in teacher shortage disciplines or at hard-to-staff schools [110 ILCS 947/52]. The ~~ITEACH~~ Teacher Shortage Scholarship encourages academically talented students to pursue careers as public, private or parochial preschool, elementary and secondary school teachers in disciplines that have been designated as teacher shortage disciplines in the State of Illinois with a priority given to minority students.*
- b) This Part establishes the rules ~~that~~ which govern the IFTC ~~ITEACH~~ Program. Additional rules and definitions are contained in General Provisions; (23 Ill. Adm.

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

Code 2700).

(Source: Amended at 28 Ill. Reg. 1749, effective January 25, 2004)

**Section 2764.20 Applicant Eligibility**

- a) ~~*A qualified applicant shall be*~~*A qualified applicant shall be:*
- 1) ~~*a United States citizen or eligible noncitizen*~~*a United States citizen or eligible noncitizen;*
  - 2) ~~*a resident of Illinois*~~*a resident of Illinois;*
  - 3) ~~*a high school graduate or a person who has received a General Educational Development (GED) Certificate*~~*a high school graduate or a person who has received a General Educational Development (GED) Certificate;*
  - 4) ~~*enrolled, or accepted for enrollment, at or above the junior level, on at least a half-time basis at an Illinois institution of higher learning*~~*enrolled, or accepted for enrollment, on at least a half-time basis at an institution of higher learning; and*
  - 5) ~~*pursuing a postsecondary course of study leading to initial teacher certification or taking additional courses needed to gain Illinois State Board of Education (ISBE) approval to teach, including alternative teacher certification [110 ILCS 947/52]*~~*pursuing a postsecondary course of study leading to initial certification in a teacher shortage discipline or taking additional courses needed to gain Illinois State Board of Education (ISBE) approval to teach, including alternative teacher certification, in an approved specialized teacher shortage program.*
- b) In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship Program (23 Ill. Adm. Code 2763), or the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code 2765), the qualified applicant shall not be eligible for scholarship assistance under this Part.

(Source: Amended at 28 Ill. Reg. 1749, effective January 25, 2004)

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**Section 2764.30 Program Procedures**

- a) All applicants must complete and file the form which the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) which is used as a selection criterion for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USCA 1070a).)
- b) A completed ISAC application for the ~~IFTC ITEACH Teacher Shortage Scholarship~~ Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an award.
  - 1) ISAC applications are available from qualified institutions of higher learning, State legislative and Congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.
  - 2) ISAC will make renewal applications available to all qualified students who received assistance under this Part ITEACH Teacher Shortage Scholarships during the preceding academic year.
  - 3) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.
- c) ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:
  - 1) cumulative grade point averages, prioritized from the highest to the lowest. All grade point averages will be converted to a four-point scale;
  - 2) Expected Family Contribution (EFC), from the lowest to the highest;
  - 3) minority students shall receive priority consideration; and
  - 4) recipients of assistance under this Part ITEACH during the previous academic year shall receive first priority consideration provided the

## ILLINOIS STUDENT ASSISTANCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

student:

- A) continues to maintain a cumulative grade point average of no less than 2.5 on a 4.0 scale;
  - B) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a) of this Part, Applicant Eligibility;
  - C) maintains satisfactory academic progress as determined by the institution; and
  - D) has submitted an application on a timely basis.
- 5) Preference may also be given to qualified applicants enrolled in teacher shortage disciplines, which shall include early childhood education at or above the junior level.
- d) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.
  - e) A recipient may receive up to 48 semesters/612 quarters of scholarship assistance under this program.
  - f) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.
  - g) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.
  - h) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors and scholarship amounts established by this Section.
  - i) ISAC shall publish guidelines for the awarding of IFTC scholarships~~ITEACH Teacher Shortage Scholarships~~.
  - j) Notice of eligibility shall be sent by ISAC to each qualified applicant who is selected to receive an IFTC scholarship~~ITEACH Scholarship~~. A notice will be sent by ISAC to each qualified applicant who is not selected to receive an IFTC

## ILLINOIS STUDENT ASSISTANCE COMMISSION

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scholarshipITEACH Scholarship.

- k) Prior to receiving scholarship assistance for any academic year, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
- 1) the recipient pledges to teach, on a full-time basis, ~~in a teacher shortage discipline~~ for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline and/or at a hard-to-staff school, as applicable one year for each year of scholarship aid received or for any portion of a year for which aid was received, under this Part;
  - 2) the recipient shall begin teaching within one year following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;
  - 3) the teaching requirement will be fulfilled at an Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school and if the award made under this Part was for teaching at a hard-to-staff school, the school must qualify for teacher loan cancellation under Section 465(a)(2)(A) of the HEA (see 20 USCA 1087ee);
  - 4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;
  - 5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
  - 6) the recipient promises to use the proceeds of the scholarship for educational expenses.
- l) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to Section 2764.30(k) during period in which

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the recipient:

- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
  - 2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or
  - 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or
  - 4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (k)(3) of this Section for one continuous period not to exceed two years, and is able to provide evidence of that fact; ~~or 5) is taking additional courses, on at least a half-time basis, needed to gain ISBE approval to teach in a specialized teacher shortage discipline.~~
- m) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces; or
  - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or
  - 3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or
  - 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 certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.
- n) During the time a recipient qualifies for any of the extensions listed in subsection

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(m) of this Section, he or she shall not be required to make payments and interest shall not accrue.

- o) 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 certification as a teacher ~~in a designated teacher shortage discipline~~, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;
  - 2) the date the recipient informs ISAC that ~~he or she s/he~~ does not plan to fulfill the teaching obligation; or
  - 3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.
- p) A recipient shall not be required to repay the amount of the scholarships ~~scholarship(s)~~ received if ~~he or she s/he~~ becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.
- q) Renewal recipients may receive a subsequent award even if their discipline is no longer on the approved list of teacher shortage disciplines.

(Source: Amended at 28 Ill. Reg. 1749, effective January 25, 2004)

**Section 2764.40 Institutional Procedures**

- a) The institution shall submit eligibility information for qualified applicants in sufficient time for ISAC to make award announcements.
- b) The institution shall submit a certification of eligibility for qualified applicants with its request for payment.
- c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the applicant's eligibility is not

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determined until the final term of the academic year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

- d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.
- e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.
- f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.
- g) Scholarship Amount
  - 1) ~~IFTC scholarships~~ ~~ITEACH Teacher Shortage Scholarships~~ are applicable only toward tuition, fees and room and board charges or commuter allowances, if applicable.
  - 2) The annual scholarship amount shall be computed by the institution and be the lesser of:
    - A) tuition and fees plus room and board expenses charged by the institution;
    - B) tuition and fees plus the institution's standard cost of living allowance for students living off-campus; ~~or~~
    - C) an amount not to exceed \$5000;-
    - D) an amount not to exceed \$10,000, subject to appropriation, if the student is pursuing a course of study necessary to teach in a teacher shortage discipline in which he or she commits to teach, or has made a commitment to teach at a hard-to-staff school; or
    - E) an amount not to exceed \$15,000, subject to appropriation, if the student is pursuing a course of study necessary to teach in a teacher

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shortage discipline in which he or she commits to teach, and has also made a commitment to teach at a hard-to-staff school.

- 3) The total amount of IFTC scholarship ~~ITEACH Teacher Shortage Scholarship~~ assistance awarded to a qualified applicant in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.
- 4) A qualified applicant may receive grant assistance under the Monetary Award Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the IFTC scholarship ~~ITEACH Teacher Shortage Scholarship~~.

(Source: Amended at 28 Ill. Reg. 1749, effective January 25, 2004)

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Professional Boxing Act
- 2) Code Citation: 68 Ill. Adm. Code 1370
- 3) Section Number: 1370.315                      Emergency Action:  
Amendment
- 4) Statutory Authority: Professional Boxing Act [225 ILCS 105]
- 5) Effective Date of Amendments: January 13, 2004
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire: These emergency rules are to expire when the proposed rules are adopted.
- 7) Date Filed in Index Department: January 13, 2004
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: There are two major Toughman events scheduled in Illinois for February 2004. Because of the very real risk of death or injury, and the fact that tickets may go on sale well in advance of the event, it is imperative that this provision take effect immediately.
- 10) A Complete Description of the Subjects and Issues Involved: The General Assembly previously banned "ultimate fighting" in Illinois but left the definition to be determined by rule. The Professional Boxing Act requires professional events to be regulated by DPR and amateur events to be sanctioned by USA Boxing or Golden Gloves of America; the only relevant exemption pertains to kickboxing or martial arts. Promoters well versed in our regulations promote their contests as kickboxing or martial arts to evade the intent of the Act. This rulemaking amends Section 1370.315 to clarify that the ban on ultimate fighting includes Toughman, Xtreme Fighting, and other fighting contests or exhibitions which have previously skirted the ban.
- 11) Are there any proposed Amendments to this Part pending: No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local government.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENT

- 13) Information and questions regarding this Amendment shall be directed to:

Department of Professional Regulation  
Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813; Fax #: 217/782-7645

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

The full text of the emergency amendment begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1370  
PROFESSIONAL BOXING ACT

SUBPART A: STATUTORY AUTHORITY

Section  
1370.10 Statutory Authority (Repealed)

SUBPART B: BOXING

Section  
1370.15 Application for a License as a Boxing Promoter  
1370.20 Application for a License as a Boxing Contestant, Second, Timekeeper, Referee,  
Judge, Matchmaker or Manager  
1370.25 Application for a Permit to Conduct a Boxing Contest  
1370.26 Seconds  
1370.27 Timekeepers  
1370.28 Referees  
1370.29 Boxers  
1370.30 Structure of Ring  
1370.40 Classes and Weights of Boxers  
1370.50 Fight Preparations (Repealed)  
1370.60 Ring Equipment (Repealed)  
1370.70 Conduct of a Contest (Repealed)  
1370.80 Scoring  
1370.90 Knockdowns  
1370.100 Fouls, Injuries, Loss of Mouthpiece  
1370.105 Ringside Physician and Paramedics  
1370.110 Drugs and Stimulants  
1370.120 Conduct of Ring Officials  
1370.140 State of Illinois Boxing Championships  
1370.160 Manager – Boxer Contracts

SUBPART C: WRESTLING

Section

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY AMENDMENT

- 1370.200 Application for a License as a Wrestling Promoter (Repealed)
- 1370.205 Application for a License as a Wrestling Referee or Timekeeper (Repealed)
- 1370.206 Application for a Permit to Conduct a Wrestling Exhibition (Repealed)
- 1370.207 General Wrestling Exhibition Requirements (Repealed)
- 1370.210 Structure of Ring (Repealed)
- 1370.220 Preparations for an Exhibition (Repealed)
- 1370.230 Conduct of an Exhibition (Repealed)
- 1370.240 Length of an Exhibition (Repealed)
- 1370.250 Scoring (Repealed)
- 1370.260 Holds (Repealed)
- 1370.270 Wrestler Out of Ring (Repealed)
- 1370.280 Disqualification (Repealed)
- 1370.290 Australian Tag Team Wrestling (Repealed)
- 1370.300 Medical Supervision (Repealed)

## SUBPART D: GENERAL PROVISIONS

## Section

- 1370.305 Fees
- 1370.310 Definitions
- 1370.315 Ultimate Fighting Exhibition

EMERGENCY

- 1370.320 Applications for Permits (Repealed)
- 1370.325 Requirements for Closed Circuit Telecasts (Repealed)
- 1370.330 Compensation (Repealed)
- 1370.340 Payment of Taxes
- 1370.350 Public Safety
- 1370.360 Renewals
- 1370.370 Granting Variances

AUTHORITY: Implementing the Professional Boxing Act [225 ILCS 105] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Emergency rules adopted at 5 Ill. Reg. 11100, effective October 1, 1981, for a maximum of 150 days; adopted at 6 Ill. Reg. 8978, effective July 15, 1982; emergency amendment at 11 Ill. Reg. 21008, effective December 9, 1987, for a maximum of 150 days; transferred from Chapter I, 68 Ill. Adm. Code 370 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1370 (Department of Professional Regulation) pursuant to P.A. 85-225 effective January 1, 1988, at 12 Ill. Reg. 2969; amended at 12 Ill. Reg. 11452, effective June 27, 1988; emergency amendment at 22 Ill. Reg. 14346, effective July 16, 1998, for a

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY AMENDMENT

maximum of 150 days; amended at 22 Ill. Reg. 19860, effective October 30, 1998; emergency amendment at 24 Ill. Reg. 875, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 7329, effective May 1, 2000; amended at 25 Ill. Reg. 4229, effective March 13, 2001; amended at 26 Ill. Reg. 13624, effective September 3, 2002; amended at 27 Ill. Reg. 5840, effective March 24, 2003; emergency amendment at 28 Ill. Reg. 1760, effective January 13, 2004, for a maximum of 150 days.

## SUBPART D: GENERAL PROVISIONS

**Section 1370.315 Ultimate Fighting Exhibition****EMERGENCY**

- a) Pursuant to Section 7.5 of the Act, ultimate fighting exhibitions are prohibited in the State of Illinois.
- b) "Ultimate fighting exhibition" means
  - 1) any competition, contest or exhibition that involves any physical combat bout with few or no restrictions on the tactics or techniques used, between two or more individuals who attempt to defeat the opponent by using elbow strikes, kicking, choking, bare knuckles, boxing, wrestling, martial arts techniques or any combination of these techniques or tactics, excluding contests or exhibitions that are authorized by the Act and this Part or exempted by Section 6 of the Act; ~~or~~
  - 2) Any fighting competition, contest or exhibition, including but not limited to those fighting competitions, contests or exhibitions commonly referred to as "Toughman Fighting", "Toughwoman Fighting", "Ultimate Fighting", "Extreme Fighting", or "Xtreme Fighting", between two or more contestants, with or without protective headgear, who use their hands, with or without gloves, or their feet, or both, and who compete for a financial prize or any item or recognition of pecuniary or nonpecuniary value, unless the competition, contest or competition is permitted and regulated by the Department pursuant to Section 7 of the Act; or
  - 3) Any elimination tournament that would require unlicensed contestants to fight more than once within a 30 day period, unless the elimination tournament is sanctioned by the United States Amateur Boxing Federation, Inc. or Golden Gloves of America; or

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- 4) Any contest or tournament that establishes classes and weights of boxers in a manner less stringent than Section 1370.40, or any contest that pairs boxers in a manner less stringent than Section 1370.40; or
- 5) Any other fighting competition, contest or exhibition determined by the Department to be a violent exhibition that is excessively and unacceptably dangerous to the participants, based upon information available to the Department regarding an individual fighting competition, contest or exhibition.
- c) The Department finds that “ultimate fighting exhibition” as defined herein is distinguished from the legitimate boxing contests permitted under the Act and the exhibitions or contests of the martial arts and other sports, including but not limited to kickboxing, that are traditionally conducted with respect for the safety and protection of the participants. The determination by the Department as to whether a competition, contest or exhibition constitutes a bona fide exception to Section 6 of the Act will be based upon whether the requirements for participation in the contest, competition or exhibition assure substantially similar protections of the public and participants’ health and safety as Sections 1370.20 through 1370.140 of this Part.
- d) Any licensee/registrant holding or promoting an ultimate fighting exhibition, or participating in an ultimate fighting exhibition as a promoter, contestant, second, referee, judge, scorer, manager, trainer, announcer, or timekeeper, may be subject to discipline pursuant to Section 16 of the Act.
- e)d) The Department shall enter an order of cease and desist to any individual or entity involved in an ultimate fighting exhibition. If the order is ignored, the Department may send such order to the Attorney General or State's Attorney for civil or criminal enforcement with respect to prohibited exhibitions and/or the Department may file a complaint for imposition of civil penalties for violation of the Act.
- f)e) A person who is guilty of violating this Section is guilty of a Class A Misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1760, effective January 13, 2004, for a maximum of 150 days)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.126      Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 93-0020
- 5) Effective Date: January 10, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: January 8, 2004
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed pursuant to the enactment of the State's budget implementation plan for fiscal year 2004. The amendments provide reimbursement increases under Safety Net Adjustment Payments to allow additional necessary funding for certain high volume Medicaid providers. Immediate implementation of these amendments is necessary to ensure access to essential medical services for public assistance clients. Emergency rulemaking is specifically authorized for the implementation of these changes for fiscal year 2004 by Section 5-45 of Public Act 93-0020.
- 10) Complete Description of the Subjects and Issues Involved: This emergency rulemaking provides fiscal year 2004 budget implementation changes that affect specified inpatient hospital services. Reimbursement levels are being increased under Safety Net Adjustment Payments to provide additional funding to high volume Medicaid providers of hospital services. This funding will ensure continued access to necessary trauma and psychiatric care services for the Department's medical assistance clients. A spending increase of approximately \$3.9 million during fiscal year 2004 is anticipated on the basis of these emergency changes.
- 11) Are there any other amendments pending on this Part? Yes

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENT

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.120	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.122	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.160	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.170	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.190	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.290	Amendment	June 27, 2003 (27 Ill. Reg. 9549)
148.290	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.295	Amendment	August 29, 2003 (27 Ill. Reg. 14090)
148.310	Amendment	August 29, 2003 (27 Ill. Reg. 14090)

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any state mandates affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217) 524-0081

The full text of the emergency amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
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
  - 148.90 Heart Transplants (Repealed)
  - 148.100 Liver Transplants (Repealed)
  - 148.105 Psychiatric Adjustment Payments
  - 148.110 Bone Marrow Transplants (Repealed)
  - 148.115 Rural Adjustment Payments
  - 148.120 Disproportionate Share Hospital (DSH) Adjustments
  - 148.126 Safety Net Adjustment Payments
- EMERGENCY
- 148.130 Outlier Adjustments for Exceptionally Costly Stays
  - 148.140 Hospital Outpatient and Clinic Services
  - 148.150 Public Law 103-66 Requirements
  - 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
  - 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
  - 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals

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- Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 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
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 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
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 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 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.390 Hearings
- 148.400 Special Hospital Reporting Requirements

## SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENT

## 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

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, 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

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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, 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.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENT

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. 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.

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

**Section 148.126 Safety Net Adjustment Payments****EMERGENCY**

- a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a). A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:
- 1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.
  - 2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.

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- 3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).
  - 4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
    - A) Has an MIUR greater than 33 percent.
    - B) Is designated a perinatal level two center by the Illinois Department of Public Health.
    - C) Has fewer than 125 licensed beds.
  - 5) The hospital is a rural hospital, as described in Section 148.25(g)(3).
  - 6) The hospital meets all of the following criteria:
    - A) Has an MIUR greater than 30 percent.
    - B) Had an occupancy rate greater than 80 percent in the safety net hospital base year.
    - C) Provided greater than 15,000 days in the safety net hospital base year.
- b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4) of this Section:
- 1) Hospitals located outside of Illinois.
  - 2) County-owned hospitals, as described in Section 148.25(b)(1)(A).
  - 3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
  - 4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).
  - 5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).

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- c) Safety Net Adjustment Rates
- 1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
- A) A qualifying hospital – \$15.00.
  - B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – \$20.00.
  - C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – \$20.00.
  - D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
    - i) Located within HSA 6 or HSA 7 – \$80.00.
    - ii) Located outside HSA 6 or HSA 7 – \$35.00.
  - E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
    - i) Located within HSA 6 or HSA 7 – \$35.00.
    - ii) Located outside HSA 6 or HSA 7 – \$15.00.
  - F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:
    - i) Located within HSA 6 or HSA 7 – \$12.00.
    - ii) Located outside HSA 6 or HSA 7 – \$5.00.
  - G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – \$125.00.

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- H) A children's hospital that is a rural hospital – \$145.00.
- I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located in HSA 6 and that:
- i) Provides obstetrical care – \$10.00.
  - ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
  - iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
  - iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – \$35.00.
  - v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – \$5.00; less than 4.00 days – \$5.00; less than 3.75 days – \$5.00.
- J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and that:
- i) Provides obstetrical care – \$70.00.
  - ii) Does not provide obstetrical care – \$30.00.
- K) A qualifying hospital that provided greater than 35,000 days in the safety net hospital base year – \$6.00.
- L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – \$48.00.
- M) A qualifying hospital that is neither a rehabilitation hospital nor a

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children's hospital, that is located outside HSA 6, that has an MIUR greater than 50 per centum, and is designated a Level II trauma center by the Illinois Department of Public Health as of July 1, 2001 – \$232.75.

- 2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be \$123.00.
- 3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
  - A) A qualifying hospital – \$40.00.
  - B) A hospital that has an average length of stay of fewer than 4.00 days, and:
    - i) More than 150 licensed beds – \$20.00.
    - ii) Fewer than 150 licensed beds – \$40.00.
  - C) A qualifying hospital with the lowest average length of stay – \$15.00.
  - D) A hospital that has a CMIUR greater than 65 per centum – \$35.00.
  - E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – \$160.00.
- 4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be \$55.00.
- 5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:
  - A) The hospital that has the highest number of obstetrical care admissions – \$30,840.00.
  - B) The greater of:

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- i) The product of \$115.00 multiplied by the number of obstetrical care admissions.
  - ii) The product of \$11.50 multiplied by the number of general care admissions.
- 6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is \$30.00.
- d) Payment to a Qualifying Hospital
  - 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days. ~~2) For the safety net adjustment period occurring in State fiscal year 2003, total payments will equal the methodologies described in subsection (c) of this Section. For the period January 1, 2003, through June 30, 2003, payment will equal the State fiscal year 2003 amount less the amount the hospital received under the safety net adjustment period for the quarters ending September 30, 2002, and December 31, 2002.~~
  - ~~2)3)~~ For safety net adjustment periods occurring after State fiscal year 2003, total payments will equal the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period in installments on, at least, a quarterly basis.
  - ~~3)~~ The payment described in subsection (c)(1)(M) of this Section will only be made in State fiscal year 2004 for the quarter ending March 31, 2004.
- e) Definitions
  - 1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.
  - 2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section 148.120(k)(6).
  - 3) "General care admissions" means, for a given hospital, the number of

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hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (f)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).

- 4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.
- 5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."
- 6) "MIUR", for a given hospital, has the meaning as defined in Section 148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.
- 7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.
- 8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (f)(7) of this Section.
- 9) "Occupancy rate" means a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days,

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and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365 days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."

- 10) "Safety net hospital base year" means the 12-month period beginning on July 1, 1999, and ending on June 30, 2000.
- 11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year, and ending on June 30 of the following year.
- 12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.
- 13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days)

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

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- 1) Heading of the Part: State Toll Highway Rules
- 2) Code Citation: 92 Ill. Adm. Code 2520
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
2520.110	Amend
2520.223	Amend
2520.700	Amend
2520.702	Amend
2520.704	Amend
2520.705	Amend
2520.706	Amend
2520.707	Amend
2520.708	Amend
2520.709	Amend
2520.710	Amend
2520.711	Amend
2520.712	Amend
2520.713	Amend
2520.715	Repeal
2520.716	Repeal
2520.717	Repeal
- 4) Statutory Authority: 605 ILCS 10/10(a)
- 5) Effective date of amendment: January 14, 2004
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will not expire before the end of its 150-period.
- 7) Date Filed with the Index Department: January 14, 2004
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: As SB 1848 was never signed into law as ISTHA had anticipated, ISTHA is repealing the emergency amendments that implemented SB 1848.

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- 10) A Complete Description of the Subjects and Issues Involved: The emergency amendments return the text in this Part to the version that existed before emergency amendments were adopted on November 6, 2003 at 27 Ill. Reg. 18238.
- 11) Are there any proposed amendments to this Part pending? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
2520.110	Amend	27 Ill. Reg. 17492
2520.223	Amend	27 Ill. Reg. 17492
2520.700	Amend	27 Ill. Reg. 17492
2520.702	Amend	27 Ill. Reg. 17492
2520.704	Amend	27 Ill. Reg. 17492
2520.705	Amend	27 Ill. Reg. 17492
2520.706	Amend	27 Ill. Reg. 17492
2520.707	Amend	27 Ill. Reg. 17492
2520.708	Amend	27 Ill. Reg. 17492
2520.709	Amend	27 Ill. Reg. 17492
2520.710	Amend	27 Ill. Reg. 17492
2520.711	Amend	27 Ill. Reg. 17492
2520.712	Amend	27 Ill. Reg. 17492
2520.713	Amend	27 Ill. Reg. 17492
2520.715	Repeal	27 Ill. Reg. 17492
2520.716	Repeal	27 Ill. Reg. 17492
2520.717	Repeal	27 Ill. Reg. 17492

- 12) Statement of Statewide Policy Objectives: This emergency amendment does not create or expand a State mandate under the State Mandates Act [30 ILCS 805/3(b)].
- 13) Information and questions regarding these amendments shall be directed to:

Robert T. Lane  
Assistant Attorney General  
Illinois State Toll Highway Authority  
2700 Ogden Ave.  
Downer's Grove IL 60515  
630/241-6800 x1530

The full text of the emergency amendments begins on the next page:

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TITLE 92: TRANSPORTATION  
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITYPART 2520  
STATE TOLL HIGHWAY RULES

## SUBPART A: AUTHORITY AND DEFINITIONS

## Section

2520.105 Authority  
2520.110 Definitions

EMERGENCY

## SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

## Section

2520.200 Illinois Vehicle Code  
2520.201 Use of Tollway Prohibited or Restricted  
2520.202 Vehicles and Equipment Which May Be Excepted from Provisions of Section  
2520.203 Transportation of Hazardous Materials  
2520.204 Special Usage Toll  
2520.205 Loading or Unloading of Vehicles  
2520.206 Full Stop at All Toll Plazas  
2520.207 Entering and Leaving the Tollway  
2520.208 "U" Turns, Etc.  
2520.209 Backing Up of Vehicles  
2520.210 Parking, Standing or Stopping  
2520.211 Relocating of Vehicles  
2520.212 Pushing or Towing of Vehicles  
2520.213 Stopping or Halting Vehicles by the Authority  
2520.214 Destruction of Authority Property  
2520.215 Picnics  
2520.216 Aircraft  
2520.217 Sale of Goods and Services  
2520.218 Solicitation of Rides  
2520.219 Loitering or Interfering with Traffic  
2520.220 Approaching/Departing a Toll Plaza  
2520.221 Compliance with Orders or Directions of State Troopers, Etc.  
2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway  
2520.223 Payment of Tolls

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- 2520.224 Prohibited and Restricted Lanes
- 2520.225 Traffic Control Devices
- 2520.226 Penalty for Violation

## SUBPART C: TRESPASS

## Section

- 2520.300 Authority
- 2520.301 Restriction of Vehicles Using the Tollway
- 2520.302 Restriction on Nature of Use of Tollway
- 2520.303 Enforcement
- 2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C
- 2520.305 Penalties

## SUBPART D: SPEED RESTRICTIONS

## Section

- 2520.400 Authority
- 2520.401 Maximum Speed Limits for Passenger Cars
- 2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
- 2520.403 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps
- 2520.404 Road Hazards and Construction Zones
- 2520.405 Minimum Speed Limits
- 2520.406 Special Road Conditions

## SUBPART E: CONDUCT PROVISIONS

## Section

- 2520.500 Provisions
- 2520.501 Violations
- 2520.502 Littering – Penalty
- 2520.503 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
- 2520.504 Toll Collection Devices – Penalty for Breaking

## SUBPART F: SEVERABILITY CLAUSE

## Section

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2520.600 Partial Invalidity

## SUBPART G: General Provisions

## Section

2520.700 Authority

EMERGENCY

2520.701 Related Statutes

2520.702 Notice to Respondent

EMERGENCY

2520.703 Establishment of the Toll Free Telephone Number

2520.704 Judicial Review

EMERGENCY

2520.705 Penalties

EMERGENCY

2520.706 Discovery

EMERGENCY2520.707 Administrative Adjudication ~~(Repealed)~~EMERGENCY2520.708 ~~Duties of Hearing Officer~~ Hearing Officers—Appointment, Disqualification, and Powers and DutiesEMERGENCY

2520.709 Hearings Format

EMERGENCY2520.710 Default – Failure to Appear ~~(Repealed)~~EMERGENCY

2520.711 Enforcement of Final Order

EMERGENCY

2520.712 Continuance

EMERGENCY

2520.713 Authority Rulemaking

EMERGENCY2520.714 Severability Clause ~~(Repealed)~~EMERGENCY2520.715 Timely Request for Hearing – Notice of Hearing ~~(Repealed)~~EMERGENCY2520.716 Failure to Respond to Notice of Violation – Default ~~(Repealed)~~EMERGENCY2520.717 Liability of Lessor ~~(Repealed)~~EMERGENCY

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AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days.

## SUBPART A: AUTHORITY AND DEFINITIONS

**Section 2520.110 Definitions****EMERGENCY**

The following words and phrases when used in this Part shall have the meanings respectively ascribed to them in this Section:

"Authority" means the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, formerly known as the Illinois State Toll Highway Commission.

"Authorized Emergency Vehicles" means vehicles of fire departments and police departments, ambulances, emergency vehicles of public service companies, and other vehicles approved and authorized by the Authority when performing emergency business.

"Complaint" and "Notice" means the documents or information sent by the Authority to the respondent notifying the respondent of the alleged violations.

"Department of Transportation" means the Department of Transportation of the State of Illinois.

"Final Notice" means the notice sent by the Authority to the respondent that informs the respondent of a finding of liability of the listed charges that has been entered against the respondent.

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"Hazardous Materials" means and includes explosives, radioactive materials, etiologic agents, and other dangerous materials, as defined in 18 USC 831, including flammable liquids.

"Hearing" means a formal hearing conducted by the Authority or appointed Hearing Officer, to determine whether a violation of the Toll Highway Act and/or any of its rules and regulations promulgated thereto exists.

"Illinois Vehicle Code" means the Illinois Vehicle Code as set forth in 625 ILCS 5.

"I-PASS" means electronic toll collection.

"I-PASS All Lanes" means that, in addition to regular toll collection equipment and toll booths, all lanes are also "I-PASS" equipped.

"I-PASS Only Lanes" means that those lanes are restricted to cars and smaller, and dual wheeled vehicles that have "I-PASS" transponders.

"I-PASS Express Lanes" means that those lanes are restricted to vehicles with "I-PASS" transponders.

"Motor Driven Cycles" means every motorcycle or motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.

"Oases" means the portions of the Tollway Right-of-Way occupied by restaurants, buildings and service stations, and adjacent parking and landscaped areas.

"Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture or other legally recognized entity.

"Respondent" means any person charged with violating the Toll Highway Act.

"Right-of-Way" means the entire area of the Tollway within the fence lines (or the barrier walls, where no fence exists), including but not limited to the roadways, shoulders, ~~structures, plazas, and landscaped areas, maintenance areas, Oases, toll plaza areas, or any other area under the control or jurisdiction of the Authority. The right of way does not include property declared "excess property" or leased as declared by the Board and it does not include the maintenance buildings,~~

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~~Central Administration building or other buildings and their parking lots.~~

"Toll" means the fixed compensation to be paid to the Authority for the privilege of using the Tollway or any part thereof.

"Toll Highway Act" means 605 ILCS 10.

"Toll Plaza" means any toll collection facility located upon the Tollway, including manned toll booths and/or automatic toll collection machines.

"Tollway" means any and all toll highways operated and maintained by the Authority pursuant to State and federal laws as well as any and all intergovernmental agreements by and between the Authority and other governmental entities.

"Traffic Control Devices" means all signs, signals, markings and devices, including but not limited to barricades and traffic cones, placed or erected by the Authority or its agents for the purpose of regulating, warning, or guiding traffic.

"Traffic Lanes" are the lanes designated for vehicular travel on the Tollway which shall be designated numerically with the extreme left lane of each directional roadway being numbered "Lane No. 1", and each lane to the right of Lane No. 1 carrying traffic in the same direction being numbered consecutively.

"Truck I-PASS/Mixed Use Lanes" means lanes primarily intended for trucks only, which may be converted for use by all vehicles with I-PASS Transponders.

"Truck I-PASS Only Lanes" means lanes restricted for use by commercial vehicles as defined in the Illinois Motor Vehicle Code at 625 ILCS 5/1-111.8.

"Violation" or "Toll Evasion" means one or more acts prohibited by the Toll Highway Act and/or any rules or regulations relating to the payment or failure to pay tolls.

Any and all terms that are not specifically defined in this Section shall have the meanings ascribed to them in the Illinois Vehicle Code and the Toll Highway Act.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

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## SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

**Section 2520.223 Payment of Tolls****EMERGENCY**

- a) All persons driving vehicles upon the Tollway, except as provided in subsection (b), are required to pay the prescribed toll at each Toll Plaza encountered while using the Tollway. Tolls may be paid for in the following manner:
  - 1) By currency or change presented to a Toll Collector, or by correct change deposited in the automatic coin machine.
  - 2) By I-PASS.
- b) Tolls shall not be required of Authority officers and employees while on Authority business, or of public police, public fire or public ambulance vehicles when on emergency business or duty necessitating the use of the Tollway system, and when the vehicle is readily identifiable as such.
- c) In addition to the remedies available pursuant to the Illinois Vehicle Code at 625 ILCS 5/3-704.2 and 625 ILCS ~~5~~6-306.7, failure to pay the prescribed toll is subject to punishment as provided in Section 27.1 of the Toll Highway Act.
- d) Any person who shall use or attempt to use any currency or coins other than legal tender of the United States of America, counterfeit, expired, or unauthorized credit cards of any type, or any electronic device or equipment not authorized by the Authority in lieu of or to avoid payment of a toll shall be deemed guilty of a petty offense and shall be subject to a fine for each such offense, as provided in Section 27.1 of the Toll Highway Act.
- e) Any person, except an authorized Authority employee or agent, who removes any coin from the pavement or from the ground surface within 10 feet of a toll collection booth or machine shall be guilty of a petty offense. This subsection shall not apply to any person who retrieves coins he or she dropped while attempting payment of a toll.
- f) Whoever wilfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance with intent to commit larceny shall be deemed guilty of a Class 4 felony and subject to fine and/or punishment as provided by the law for such class of crime.

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

- g) No vehicle shall be driven through a Toll Plaza collection facility without payment of the proper toll. In the event of non-payment of the proper toll, as evidenced by video, ~~photo~~ or electronic recording, the registered owner of such vehicle shall, upon notice to the registered owner by ~~first class~~ mail or personal service, be liable to make prompt payment to the Authority of the proper toll charge as well as an administrative ~~fee~~ fine of \$20. ~~Upon the failure of the registered vehicle owner to either pay in full all outstanding tolls and fines set forth in the notice or the failure to file a timely request for a hearing, the registered vehicle owner shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability in default against the registered vehicle owner.~~ Upon failure to pay the proper toll and administrative ~~fee~~ fine to the Authority after notice thereof and within the time designated in the notice, the registered owner shall also be subject to payment of an additional fine of \$50 for each and every violation of this subsection and any other fine or penalty that may be prescribed by law for such violations. *Upon receipt of a certified report from the Authority stating that the registered owner of a vehicle has failed to satisfy any fine or penalty resulting from a final order ~~of liability~~ issued by the Authority relating directly or indirectly to 5 or more toll violations, toll evasions, or both, the Secretary of State shall suspend the vehicle registration and/or driver's license of the person [625 ILCS 5/3-704.2 and 6-306.7].* This subsection shall not apply if the driver of the vehicle is fined or otherwise penalized for the same violation under the Illinois Vehicle Code or other Rule or Regulation regarding failure to pay the prescribed toll.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

## SUBPART G: GENERAL PROVISIONS

**Section 2520.700 Authority****EMERGENCY**

The following Rules in this Subpart G provide for an administrative adjudication hearing to investigate, mediate, and/or adjudicate alleged violations of a vehicle's operation on a toll highway without the required toll having been paid, as detected by the Authority's video ~~or photo~~ surveillance system, pursuant to 605 ILCS 10/10(a)(5) of the Toll Highway Act (see PA 89-0120, effective July 7, 1995).

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.702 Notice to Respondent****EMERGENCY**

The Authority, ~~or its duly authorized agent~~, shall give Notice to the respondent of the alleged violation. Once valid Notice has been given, nothing in this Part shall be construed to limit the Authority's rights or remedies. The notice shall be served on respondent by First Class United States Mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease. The service shall be deemed complete three calendar days after the date of the Notice. The Notice shall be in the following sequence and shall include, but not be limited to, the following information:

- a) A "Notice of Violation" specifying the date, approximate time and location of the violation cited, the particular regulation violated, the State registration number of cited vehicle (if available), ~~the outstanding toll~~, the fine, and the amount of any additional fine that may be assessed for late payment, the availability of a hearing in which the violation may be contested on its merits and the manner in which the hearing may be had. Upon request, the Authority shall make available the ~~videophoto~~ surveillance evidence related to the cited violation. The notice shall also state that failure to either pay the indicated ~~toll~~ fine and any applicable penalty or to request a hearing on the merits may result in a final determination order of toll evasion liability in the amount of the ~~toll~~ fine and/or penalty indicated.
- b) A "Notice of Final Determination" shall be sent following a determination of toll evasion liability. The notice shall state that the unpaid fine and/or penalty is a debt owing the Authority. The notice shall contain warnings that failure to pay any fine or penalty due and owing within the time specified may result in the Authority's filing of a petition in the Circuit Court to have the unpaid fine or penalty rendered as a judgment as provided by this Section. In addition, the Authority may exercise any other right or remedy allowable under the laws of the State of Illinois. Each and every instance of toll evasion shall be considered an individual violation.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

**Section 2520.704 Judicial Review****EMERGENCY**

Judicial review of all final orders of the Authority shall be conducted in accordance with the Illinois Administrative Review Law, 735 ILCS 5/Art. III. All such actions for administrative review must be filed and heard in the Circuit Court of DuPage County of any county in which the administrative hearing was held or in which the underlying violation occurred.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.705 Penalties****EMERGENCY**

- a)** Section 2520.223(g) of this Part authorizes the Illinois State Toll Highway Authority to:
- 1)a)** Assess ~~the outstanding toll per found violation and~~ a \$20.00 fine ~~per found violation~~ against the registered owner of a vehicle who fails to pay the proper toll against whom a final order of liability has been entered; and
  - 2)b)** Upon failure to pay the proper toll and fine to the Authority after notice of a final determination and within 14 days after the notice, the registered owner shall also be subject to payment of an additional fine of \$50.00 for each and every violation pursuant to Section 2520.223(g) of this Part; and
  - 3)e)** Upon failure of a registered owner of a vehicle to satisfy any ~~toll~~ fine or penalty resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, notify the Secretary of State to suspend the vehicle registration and/or driver's license of the person.
- b)1)** A prerequisite to the suspension of vehicle registration and/or driver's license by the Secretary of State, ~~under 625 ILCS 5/3-704.2 or 6-306.7~~, shall be the submission to the Secretary of State, by the Authority, of a certified report containing the following information:
- 1)A)** *The name, last known address and driver's license number of the person who failed to satisfy the fines or penalties and the registration number of any vehicle known to be registered in this State to the person.*

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

~~2)B)~~ *A statement that the Authority sent a notice of impending suspension of the person's driver's license, vehicle registration, or both, to the person named in the report at the address recorded with the Secretary of State, the date on which the notice was sent, and the address to which the notice was sent. [625 ILCS 5/3-704.2]*

~~c)2)~~ The person to whom the notice of impending suspension was sent may challenge the accuracy of the information contained in the Certified Report by submitting his/her challenges, within 21 days after the date of the notice, in writing, to:

The Illinois State Toll Highway Authority  
ATTN: Violation Administration Center  
2700 Ogden Avenue  
Downers Grove, Illinois 60515

Challenges to the accuracy of the information contained in the Certified Report shall be limited to the following:

~~1)A)~~ The person having received the notice ~~is was~~ not the ~~registered~~ owner of the vehicle in question ~~at the time of the alleged violations.~~

~~2)B)~~ The person having received the notice has already paid the fine/penalty.

~~3)~~ The person having received the notice was found not guilty of the alleged violations.

~~4)~~ The person having received the notice was found guilty of fewer than 5 violations.

~~5)~~ Any other material error in the contents of the Certified Report.

~~d)3)~~ *The Authority shall notify the Secretary of State whenever a person named in the certified report has satisfied the previously reported fines or penalties or whenever the Authority determines that the original report was in error. Upon receipt of the Authority's notification, the Secretary of State shall terminate the suspension. [625 ILCS 5/6-306.7]*

~~e)4)~~ In addition to any ~~tolls, fines, and other penalties~~ assessed for toll violations, the registered owner of the vehicle involved in the toll violations at issue shall be

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

required to reimburse the Authority for all fees paid to the Illinois Secretary of State for the enforcement of this Section. ~~d) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or penalty resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, any and all vehicles registered to the owner shall be subject to immobilization, towing and/or impoundment. This subsection (d) shall be effective upon the effective date of Senate Bill 1848 of the 93<sup>rd</sup> Illinois General Assembly. 1) The registered owner may challenge the immobilization, tow and/or impoundment within 21 days after the date of immobilization, tow and/or impoundment, in writing, to: The Illinois State Toll Highway Authority ATTN: Violation Administration Center 2700 Ogden Avenue Downers Grove IL 60515 2) Challenges to the accuracy of the information contained in the certified report shall be limited to the following: A) The registered owner was not the registered owner of the vehicle in question at the time of the alleged violations. B) The registered owner has already paid the fine/penalty. 3) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has already paid the fine/penalty, then the hearing officer shall order the Authority to release the vehicle without any costs to the registered owner. 4) If a hearing officer determines that the registered owner was the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has not already paid the fine/penalty, then the hearing officer shall order the Authority to release the vehicle only upon payment in full to the Authority of any and all outstanding final order judgment totals plus reimbursement to the Authority for all fees paid relating to the immobilization, tow, impoundment and/or storage of the vehicle by the registered owner of the vehicle. e) Place a lien upon the personal and/or real property of a registered owner of a vehicle who has failed to satisfy any toll, fine or penalty resulting from a final order or orders issued by the Authority relating directly or indirectly to toll violations where the total of the order or the cumulative total of the orders is \$500 or more. The Authority shall release the lien upon payment in full of any and all outstanding final order judgment totals plus reimbursement to the Authority for all fees paid relating to the placement and the removal of the lien by the registered owner of the vehicle. This subsection (e) shall be effective upon the effective date of Senate Bill 1848 of the 93<sup>rd</sup> Illinois General Assembly.~~

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.706 Discovery****EMERGENCY**

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## NOTICE OF EMERGENCY AMENDMENTS

Except by the written agreement of all parties, discovery is limited to the following:

- a) The respondent will be allowed to schedule an appointment to review any video photo surveillance evidence prior to the scheduled hearing. Such appointments shall be made during regular business hours of the Authority and shall take place at the Authority's corporate office located at 2700 Ogden Avenue, Downers Grove, Illinois 60515, or the Violation Administration Center, ~~or any other location designated by the Authority.~~
- b) Written discovery shall be limited to the production of documents and identification of witnesses that each party intends to introduce or call at the hearing. Nothing in this subsection (b) shall impose a duty upon the Authority to serve respondent with any documents that were previously sent to the registered owner of the cited vehicle as recorded with the Illinois Secretary of State by U.S. mail.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.707 Administrative Adjudication (Repealed)****EMERGENCY**

- a) If the respondent fails to pay the assessed fines in the time specified and fails to request a hearing in the time specified in the notice, the respondent may be found liable for the alleged violations. The Authority shall designate a Hearing Officer to conduct the hearing. The Authority may designate any person familiar with the law relating to the substance of the hearing as the Hearing Officer.
- b) Notice of Hearing – The Authority shall provide written notice of the date and time of the hearing to all interested parties to the proceeding. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for such hearings. The Authority may, at its sole discretion, establish a process whereby respondents may contest the charges by mail rather than participating in a hearing.
- c) Contesting Violations by Mail – If the notice allows for the contesting of the alleged violations by mail and the respondent elects to contest the alleged violations by mail, then respondent shall be bound by the determinations of the Hearing Officer as if the respondent had appeared in person for such hearing.

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- d) Minutes of Hearing – No minutes of the hearing shall be required; however, all pleas and all determinations of liability must be evidenced in the Hearing Officer's report and must set forth the basis of the finding in sufficient detail as to allow for meaningful review of the finding.
- e) Conduct of Hearing – The Hearing Officer shall have full authority to conduct and control the procedure at the hearing. The Hearing Officer shall apply a preponderance of the evidence standard to all hearings conducted to determine respondent's liability for the violations alleged in the notice. The Hearing Officer shall not be bound by the strict rules of evidence of courts of law and equity.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.708 Duties of Hearing Officer ~~Hearing Officers—Appointment, Disqualification, and Powers and Duties~~  
EMERGENCY**

- a) ~~The Authority shall appoint independent attorneys to serve as hearing officers in administrative hearings under this Subpart. In addition, each hearing officer shall be an attorney admitted to the practice of law in the State of Illinois for at least 5 years and shall participate in a formal training program on the relevant substantive and procedural law and judicial conduct.~~
- b) ~~A motion to disqualify a hearing officer may be made for bias or conflict of interest and must be made prior to the commencement of the hearing.e)~~

The powers and duties of the Hearing Officer ~~hearing officer~~ at the hearing include, but are not limited to:

- a) ~~1)~~ presiding over the hearing;
- b) ~~2)~~ explaining the procedures of the hearing to the interested parties;
- c) ~~3)~~ administering all oaths and listening to testimony;
- d) ~~4)~~ ruling on the admissibility of evidence and permitting parties to present evidence;
- e) ~~5)~~ permitting parties to examine and cross examine witnesses; and

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

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- f) ~~6)~~ preparing a report issuing a decision indicating his/her finding and the evidence and reasons supporting the finding.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.709 Hearings Format****EMERGENCY**

- a) The Authority or the respondent may introduce into evidence, and the Hearing Officer may consider, all video surveillance evidence relating to the charged violations regardless of any foundation objections made by the opposing party. The Authority may be represented by an employee or duly authorized agent at the hearing or may proceed on the notice of violation. However, in no event shall the hearing officer be allowed to present any evidence on behalf of the Authority; provided, however, that the notice of violation may be placed into the record by the hearing officer. A respondent may represent himself or herself or be represented by a duly authorized agent.
- b) Any employee of the Authority may present the evidence on behalf of the Authority related to the alleged violations. However, in no event shall the Hearing Officer be allowed to present any evidence on behalf of the Authority. The Authority or the respondent may introduce into evidence, and the hearing officer may consider, all photo surveillance evidence relating to the charged violations, the foundation for which shall be presumed subject to rebuttal.
- c) Each party to the hearing may make an opening statement, call, examine and cross examine witnesses, and seek to offer evidence. Evidence may be written or oral.
- d) Each party may make a closing statement at the conclusion of the hearing.
- e) The Hearing Officer may establish reasonable time limits for each presentation.
- f)e) No testimony shall be given or received at the hearing relating to discussions, offers, counter offers, rejections or admissions at any settlement conferences that may have occurred.
- g) f) Stipulations – Any written stipulations of the parties may be introduced as

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## NOTICE OF EMERGENCY AMENDMENTS

evidence at the hearing. Such stipulations shall be introduced at the beginning of the hearing and shall become part of the record of the hearing. ~~g)The Authority may, at its sole discretion, establish a process whereby respondents may contest the charges by a telephonic hearing or mail-in hearing as opposed to an in-person hearing. h)The hearing officer shall have full authority to conduct and control the procedure at the hearing. The hearing officer shall apply a preponderance of the evidence standard to all hearings conducted to determine respondent's liability for the violations alleged in the notice. The hearing officer shall not be bound by the strict rules of evidence of courts of law and equity. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under the rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Oral testimony in in-person or telephonic hearings may be recorded by audio or electronic means, provided, however, that, in the event of a recording loss or malfunction, the hearing officer may prepare a written summary of the oral testimony for purposes of administrative review. In addition, the Authority may exercise any other right or remedy allowable under the laws of the State of Illinois. Each and every instance of toll evasion shall be considered an individual violation. i)Final Order—Upon completion of a hearing on the merits, the hearing officer shall issue a final order setting forth his or her finding or findings as to liability or non-liability of the owner. If the hearing officer finds for the Authority, he or she, in the order, shall assess the tolls, fines and other penalties as mandated or provided by law, and shall also in the order state that an automatic additional fine of \$50 per found violation will be assessed, by operation of law and without further notice or order, upon failure of the registered owner to pay the proper toll and fine to the Authority within 14 calendar days after the issuance of a final order of liability. A final order shall also inform the parties of the right to seek judicial review under the Illinois Administrative Review Law [735 ILCS 5/Art. III].~~

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.710 Default – Failure to Appear ~~(Repealed)~~**  
**EMERGENCY**

- a) If a party fails to appear at the hearing and fails to timely and properly request a

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continuance of the hearing, the Hearing Officer may enter an order of default against the party, and may also assess fines and penalties pursuant to the "Penalties" Section 2520.705, contained herein.

- b) If a representative from the Authority fails to appear at the hearing to prosecute the complaint/violation, the Hearing Officer shall dismiss the complaint with prejudice.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.711 Enforcement of Final Order****EMERGENCY**

When the Authority determines that its order imposing fines remains unpaid, the Authority may exercise any of its remedies listed under Section 2520.7052520.710, penalties. Those remedies will be cumulative and the exercise of any remedy does not preclude the use of any other remedy by the Authority.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.712 Continuance****EMERGENCY**

- a) The Authority shall have no right to a continuance unless the respondent requested and was granted a continuance in the matter.
- b) All requests for continuance shall be made at least 24 hours in advance of the scheduled hearing date. All requests for continuances shall be made by contacting the Authority at its toll-free number and requesting a new hearing date. The respondent shall be issued a new hearing date that sets the matter for hearing within 30 days after the previously scheduled hearing date. Unless good cause is shown, in writing, at least 7 days before the scheduled hearing, no party shall be granted more than one continuance. The hearing officer may grant a continuance only upon a finding of good cause. A respondent may be granted one continuance to seek retention of legal counsel but that motion must be made in a timely manner prior to the introduction of any testimony or other evidence on the merits. A disruption in the automated adjudicatory file system shall also be grounds for

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENTS

~~an additional continuance.~~

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.713 Authority Rulemaking****EMERGENCY**

~~These rules~~~~This Part~~ shall be liberally construed to accomplish the purposes of the Toll Highway Act and the laws of the State of Illinois. ~~These rules and regulations~~ ~~This Part~~ shall be available to the general public at the main administrative office of the Authority during regular business hours ~~and on the Authority's web site~~. These rules are subject to modification, ~~under the Illinois Administrative Procedure Act [5 ILCS 100]~~, at any time by the Authority's Board of Directors.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.715 Timely Request for Hearing – Notice of Hearing (Repealed)****EMERGENCY**

~~Upon receipt of a timely request for a hearing from the registered vehicle owner, the Authority or its duly authorized agent shall provide notice of the date, time and location of the hearing to the respondent. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for such hearings.~~

(Source: Repealed by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.716 Failure to Respond to Notice of Violation – Default (Repealed)****EMERGENCY**

~~Upon the failure of the registered vehicle owner to either pay in full all outstanding tolls and fines set forth in the notice or the failure to file a request for a hearing within the time permitted, the registered vehicle owner shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability in default against the registered vehicle owner.~~

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## NOTICE OF EMERGENCY AMENDMENTS

(Source: Repealed by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

**Section 2520.717 Liability of Lessor (Repealed)****EMERGENCY**

~~No commercial entity that is the lessor of a vehicle pursuant to a written lease agreement shall be liable for the violation involving that vehicle during the period of the lease if the lessor provides a copy of the leasing agreement to the Authority within 21 days after the issue date of the notice of violation. In addition, the leasing agreement must contain a provision or addendum informing the lessee that the lessee is liable for payment of all tolls, as well as all fines for both evasion, and each lessor must also post a sign to that effect at the leasing counter. The copy of the leasing agreement must contain the name, address and driver's license number of the lessee. "Lessor", for purposes of this Section, includes commercial leasing and rental entities, but does not include public passenger vehicle operators.~~

(Source: Repealed by emergency rulemaking at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 13, 2004 through January 20, 2004 and have been scheduled for review by the Committee at its February 18, 2004 meeting in Springfield. 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>
2/26/04	<u>Department of Public Health</u> , Hospital Licensing Requirements (77 Ill. Adm. Code 250)	9/26/03 27 Ill. Reg. 15028	2/18/04
2/27/04	<u>Department of Insurance</u> , Automobile Anti-Theft Mechanisms (50 Ill. Adm. Code 932)	2/28/03 27 Ill. Reg. 3219	2/18/04
2/27/04	<u>Department of Professional Regulation</u> , Nursing and Advanced Practice Nursing Act – Advanced Practice Nurse (68 Ill. Adm. Code 1305)	11/21/03 27 Ill. Reg. 17363	2/18/04
2/28/04	<u>Illinois Commerce Commission</u> , Claims (92 Ill. Adm. Code 1226) (Repealer)	6/20/03 27 Ill. Reg. 9289	2/18/04
2/28/04	<u>Illinois Commerce Commission</u> , Annual Reports (92 Ill. Adm. Code 1303) (Repealer)	6/20/03 27 Ill. Reg. 9302	2/18/04
2/28/04	<u>Illinois Commerce Commission</u> , Establishment of Rates Based on Value (Released Value Rates) (92 Ill. Adm. Code 1385) (Repealer)	6/20/03 27 Ill. Reg. 9310	2/18/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

2/28/04	<u>Illinois Commerce Commission</u> , Tariff Bureaus (92 Ill. Adm. Code 1400) (Repealer)	6/20/03 27 Ill. Reg. 9314	2/18/04
2/28/04	<u>Illinois Commerce Commission</u> , Transportation of Household Goods in Intrastate Commerce (92 Ill. Adm. Code 1455) (Repealer)	6/20/03 27 Ill. Reg. 9320	2/18/04
2/28/04	<u>Illinois Commerce Commission</u> , Resolution of Household Goods Disputes (92 Ill. Adm. Code 1456) (Repealer)	6/20/03 27 Ill. Reg. 9336	2/18/04
2/29/04	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	9/12/03 27 Ill. Reg. 14384	2/18/04
2/29/04	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	9/26/03 27 Ill. Reg. 15050	2/18/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.492

Date Originally Published in the Illinois Register: 9/19/03  
27 Ill. Reg. 14776

At its meeting on January 14, 2004, the Joint Committee on Administrative Rules considered the Department of Public Aid's rulemaking titled Medical Payment (89 Ill. Adm. Code 140; 27 Ill. Reg. 14776), and recommended that DPA again amend this Part in the near future to put in place standards for determining the "necessity of ensuring service availability" and how rate adjustments will be made. The agency acknowledges this deficiency in this rulemaking, but indicates it is currently reviewing this entire program and would like to add the needed detail when it revamps the program based on that review.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

## DEPARTMENT OF PUBLIC AID

NOTICE OF AGENCY RESPONSE TO RECOMMENDATION BY THE JOINT COMMITTEE  
ON ADMINISTRATIVE RULES ON EMERGENCY RULEMAKING

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill Adm. Code 140
- 3) Section Number:      Action:  
140.492                      Future Rulemaking
- 4) Date Originally Published in the Illinois Register: October 3, 2003 (27 Ill. Reg. 15584)
- 5) JCAR Statement of Recommendation on Emergency Rulemaking Published in the Illinois Register: December 5, 2003 (27 Ill. Reg. 18480)
- 6) Summary of Action Taken by the Agency:

At its meeting on November 18, 2003, the Joint Committee on Administrative Rules considered the above-cited emergency rulemaking and issued a recommendation that the Department amend the companion proposed rulemaking to put in place standards for determining the necessity of ensuring service availability and how adjustments will be made.

The Department agrees with the Joint Committee on the need for standards in administrative rules. Currently, the Department is working with providers and through an internal workgroup towards reform of the non-emergency transportation (NET) system that will ensure access for clients, improve efficiency and reimbursement equity, and provide cost containment strategies. The Department is committed to placing appropriate criteria and standards into 89 Ill. Adm. Code 140.492 when reform of the NET system has been completed. The current emergency rulemaking and the companion proposed rulemaking are necessary to allow time for reform of the NET system during which the Department can address extraordinary situations.

## DEPARTMENT OF PUBLIC AID

NOTICE OF AGENCY RESPONSE TO RECOMMENDATION BY THE JOINT  
COMMITTEE ON ADMINISTRATIVE RULES ON PROPOSED RULEMAKING

- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) 

<u>Section Numbers:</u>	<u>Action:</u>
147.5	Continue to work with the General Assembly and the nursing home industry concerning the reimbursement system related to services provided to mentally ill clients
147.15	
147.25	
147.50	
147.75	
147.100	
147.125	
147.150	
147.175	
147.200	
147.205	
147.250	
Table A	
Table B	
Table C	
Table D	
Table E	
Table F	
Table G	
Table H	
Table I	
Table J	
Table K	
Table L	
- 4) Notice of Proposed Amendments Published in the Illinois Register: May 30, 2003 (27 Ill. Reg. 8658)
- 5) JCAR Statement of Recommendation on Proposed Rulemaking Published in the Illinois Register: December 5, 2003 (27 Ill. Reg. 18481)
- 6) Summary of Action Taken by the Agency: At its meeting on November 18, 2003, the Joint Committee on Administrative Rules considered the above-cited rulemaking and

## DEPARTMENT OF PUBLIC AID

NOTICE OF AGENCY RESPONSE TO RECOMMENDATION BY THE JOINT  
COMMITTEE ON ADMINISTRATIVE RULES ON PROPOSED RULEMAKING

issued a recommendation that the Department continue to work with the General Assembly and representatives of the nursing home industry to address the needs of the reimbursement system for services to the mentally ill.

The Department agrees with the Joint Committee on the importance of continued work on the reimbursement system related to services for clients with mental illness. The Department will pursue the action recommended by the Joint Committee.

STATE UNIVERSITIES RETIREMENT SYSTEM  
OF THE STATE OF ILLINOISNOTICE OF MODIFICATION TO MEET THE OBJECTION OF THE JOINT COMMITTEE  
ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) Section Number: 1600.60                      Action: Modify
- 4) Date Notice of Proposed Rules Published in the Illinois Register:  
May 30, 2003,                      27 Ill. Reg. 8849
- 5) Date JCAR Statement of Objection Published in the Illinois Register:  
December 5, 2003,                      27 Ill. Reg. 18482
- 6) Summary Action Taken by the Agency:

In response to JCAR's objection to the above-referenced rulemaking, the State Universities Retirement System will submit for *Illinois Register* publication a modified rulemaking including an amended sick leave schedule with a one-year limit. In addition, a provision providing relief for those who may have detrimentally relied upon the System's prior practice will be included.

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Fees and Charges; 50 Ill. Adm. Code 2505
- 1) Rulemaking:
- A) Description: This Part will be amended to include provisions that allow the Department to collect fees when a check, or other draft that is not honored because the drawer does not have an account, or because the drawer does not have sufficient funds, or because the drawer does not have sufficient credit.
- B) Statutory Authority: Implementing Section 408 of the Illinois Insurance Code [215 ILCS 5/408]; Article 3, Part 8 of the Uniform Commercial Code [810 ILCS 5/3-806], and authorized by Sections 401 and 409(5) of the Illinois Insurance Code [215 ILCS 5/401, 408 and 409(5)].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: June 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: Any member of the public who pays a fee, including all licensure fees, may be affected by this rule change.
- F) Agency contact person for information:
- Kelly Kruger, Assistant Deputy Director  
Producer Regulatory Division  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-2263
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Insurance Fraud Reporting; 50 Ill. Adm. Code  
NEW
- 1) Rulemaking:

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

- A) Description: This new regulation will set forth fraud reporting requirements necessitated by PA 92-0233. This requirement will generally include the insurance application process; the collection of insurance premiums; and suspected fraudulent activities in the life, accident, and health insurance industry.
- B) Statutory Authority: Implementing Sections 155.23 and 155.24 of the Illinois Insurance Code [215 ILCS 5/155.23 and 155.24] and authorized by Sections 155.23 and 401 of the Code [215 ILCS 5/155.23 and 401].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: June 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: No affect
- F) Agency contact person for information:
- Dale Emerson, Assistant Deputy Director  
Consumer Services Section  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-5044
- G) Related rulemakings and other pertinent information: None
- c) Part(s) (Heading and Code Citation): Payment of Annual Compliance Fees for Pension Funds; 50 Ill. Adm. Code 4415
- 1) Rulemaking:
- A) Description: Section 4415.40 of this Part will be amended to implement PA 93-0032, which increased the amount of the compliance fee Article 3 and \$ pension funds must pay.

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

- B) Statutory Authority: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: March 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: No affect
- F) Agency contact person for information:

John McNutt  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/524-7171

- G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Improper Claims Practice; 50 Ill. Adm. Code 919

1) Rulemaking:

- A) Description: The Department will amend this Part to bring the provisions concerning the requirement for insurance companies to conduct a search for multiple life insurance policies in line with the NAIC model.
- B) Statutory Authority: Implementing Sections 154.5 and 154.6 of the Illinois Insurance Code [215 ILCS 5/154.5 and 154.6] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401], Section 10 of the Voluntary Health Services Plans Act [215 ILCS 165/10], Section 25 of the Dental Service Plan Act [215 ILCS 110/25] and Section 5-3 of the Health Maintenance Organization Act [215 ILCS 125/5-3].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

- D) Date agency anticipates First Notice: February 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: No affect
- F) Agency contact person for information:  
  
Dale Emerson, Assistant Deputy Director  
Consumer Services Section  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-5044
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citation): Registration Requirements for Employee Leasing Companies; 50 Ill. Adm. Code NEW
- 1) Rulemaking:
- A) Description: Employee leasing companies are required by the Illinois Insurance Code and the Illinois Workers Compensation Act to carry workers compensation coverage on leased employees. Examination of the books and records for these employee leasing companies has shown that some companies do not carry workers compensation coverage, and that those who do carry coverage may have purchased it from an unauthorized insurance company. This new regulation will require employee leasing companies to file proof of workers compensation coverage at the time of initial registration or registration renewal.
- B) Statutory Authority: Implementing Section of the Workers' Compensation Act [820 ILCS 305] and the Employee Leasing Act [215 ILCS 133] and authorized by Section 401 of the Illinois Insurance Code and Section 56 of the Employee Leasing Act [215 ILCS 113/56].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

- D) Date agency anticipates First Notice: June 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: The new rule will apply to employee leasing companies.
- F) Agency contact person for information:

Dale Emerson, Assistant Deputy Director  
Consumer Services Section  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-5044

- G) Related rulemakings and other pertinent information: None

- f) Part(s) (Heading and Code Citation): Valuation of Life Insurance Policies Including the Use of Select Mortality Factors; 50 Ill. Adm. Code 1409

1) Rulemaking:

- A) Description: This rule will be amended to allow for recognition and use of the 2001 CSO mortality tables being promulgated under new Part 1412.
- B) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: February 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: No affect
- F) Agency contact person for information:

Bruce Sartain, Chief Life Actuary

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-0903

- G) Related rulemakings and other pertinent information: Under new Part 1412, use of these updated mortality tables would not be required until 1/1/09. Until that time they are optional by plan of insurance. For plans of insurance covered by Part 1409 (which may be sold by small life insurers), minimum required reserves are expected to decline. Therefore, products will need to be repriced and refiled. Additionally, if the company uses the 2001 CSO for any plan, they will be required to perform asset adequacy analysis to assure their reserves are adequate in light of the assets they are holding in support of reserves. The requirement to perform asset adequacy analysis will be new for some small life insurance companies.
- g) Part(s) (Heading and Code Citation): Recognition of the 2001 CSO Mortality Table of Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits; 50 Ill. Adm. Code 1412
- 1) Rulemaking:
- A) Description: Please see the DOI July 2003 Regulatory Agenda Item (d) published in the July 7, 2003 *Illinois Register* on page 10127. This item was inadvertently labeled as an amendment to Part 1409, when it should have been identified as a new regulation to be promulgated.
- B) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.
- D) Date agency anticipates First Notice: February 2004
- E) Affect on small businesses, small municipalities or not for profit corporations: No affect

## DEPARTMENT OF INSURANCE

## JANUARY 2004 REGULATORY AGENDA

F) Agency contact person for information:

Bruce Sartain, Chief Life Actuary  
Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-0903

G) Related rulemakings and other pertinent information: Please refer to item (f) above, as the amendments to Part 1409 are intended to recognize the promulgation of the 2001 CSO Mortality Table to be codified in Part 1412.h) Part(s) (Heading and Code Citation): Pre-licensing and Continuing Education; 50 Ill. Adm. Code 31191) Rulemaking:

A) Description: This rule will be amended in order to make it consistent with the NAIC model. In addition, technical changes will be made concerning self-study courses.

B) Statutory Authority: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35 and 401].

C) Scheduled meeting/hearing dates: No meetings or hearings have been scheduled.

D) Date agency anticipates First Notice: April 2004

E) Affect on small businesses, small municipalities or not for profit corporations: These amendments will affect insurance producers, and prelicensing and continuing education providers.

F) Agency contact person for information:

Kelly Kruger, Assistant Deputy Director  
Producer Regulatory Division

DEPARTMENT OF INSURANCE

JANUARY 2004 REGULATORY AGENDA

Department of Insurance  
320 West Washington Street  
Fourth Floor  
Springfield, Illinois 62767-0001  
217/785-2263

- G) Related rulemakings and other pertinent information: None

## PROCLAMATIONS

**2003-318 (Revised)  
Teachers' Retirement System**

*WHEREAS, the Teachers' Retirement System of Illinois, through its various school districts and employers, desires to provide Hospital Insurance (Medicare) coverage for its members who do not have mandatory coverage for Hospital Insurance, pursuant to Public Law 99-272 and pursuant to Public Law 101-508; and*

WHEREAS, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that each eligible employee who is a participant in the Teachers' Retirement System be given the opportunity to register his/her personal choice by written ballot as to whether he/she elects Hospital Insurance coverage; and

WHEREAS, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

*WHEREAS, I, hereby designate the Executive Secretary of the State Employees'*

*Retirement System and the Executive Director of the Teachers' Retirement System as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I, hereby confer upon such officials the authority to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes; to allocate their other duties under this proclamation among themselves; and to delegate such other duties to others as they shall deem appropriate:*

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim a period of at least 90 days notice between the dates of February 16, 2004 - May 15, 2004 to eligible employees of the various school districts and employers of the Teachers' Retirement System that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the Teachers' Retirement System and the referendum concluded not later than May 16, 2004.

Issued by the Governor December 18, 2003.

Filed by the Secretary of State January 14, 2004.

**2004-6  
Warren V. Hileman Regional Day**

## PROCLAMATIONS

WHEREAS, Warren V. Hileman, born in Union County on September 29, 1901, served his country during World War I as a member of the United States Army from July 1919 to August 1922 with Company B, 27<sup>th</sup> Infantry; and

WHEREAS, Mr. Hileman has one daughter, Alice Hardin, who resides in Anna, Illinois. His lifetime hobby is carpentry, and he regularly reads the newspaper to stay abreast on current events. He also enjoys taking car rides, playing bingo and eating at restaurants. Mr. Hileman can often be heard saying “I’m not old, I’ve just been here a long time”; and

WHEREAS, since 1995, Mr. Hileman has been living at the Illinois Veterans’ Home in Anna, Illinois; and

WHEREAS, on Wednesday, January 14, 2004, the State of Illinois will present Mr. Hileman with a World War I Victory Medal for honorable services from September 6, 1919 to March 10, 1920, while serving with the American Expeditionary Forces in Siberia:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim January 14, 2004 as WARREN V. HILEMAN DAY in Illinois, in recognition of Mr. Hileman’s courageous and selfless dedication to his country.

Issued by the Governor January 12, 2004.

Filed by the Secretary of State January 14, 2004.

**2004-7****Four Chaplains Sunday**

WHEREAS, on February 3, 1943, four United States Army Chaplains, Reverend George L. Fox, Rabbi Alexander D. Goode, Reverend Clark V. Poling and Reverend John P. Washington, sacrificed their lives in one of the most inspiring acts of heroism during World War II; and

WHEREAS, on what is now remembered as “Four Chaplains Sunday,” the four Chaplains remained onboard the sinking U.S.A.T. Dorchester, handing out life jackets to the soldiers; and

WHEREAS, when no life jackets remained, they removed their own and gave them away, so that four more soldiers would have a chance at survival; and

WHEREAS, they then sank with the ship in the North Atlantic, their arms linked together while they prayed; and

WHEREAS, this year’s memorial program is being hosted by the Navy Club of the USA, Department of Illinois, and is annually sponsored by the Combined Veterans Association of Illinois:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 1, 2004 as FOUR CHAPLAINS SUNDAY in Illinois to commemorate the brave Chaplains who served selflessness, bravery and dedication.

Issued by the Governor January 13, 2004.

Filed by the Secretary of State January 14, 2004.

## PROCLAMATIONS

**2004-8  
FFA Week**

WHEREAS, agriculture is Illinois' largest and most productive industry and is vital to the future progress and prosperity of our state; and

WHEREAS, agriculture education prepares over 25,000 students each year to meet the growing demands in the science, business and technology of agriculture; and

*WHEREAS, the Future Farmers of America (FFA) provides over 16,000 members with positive learning experiences that develop their potential for premier leadership, personal growth and career success; and*

WHEREAS, the Illinois Association FFA, which encompasses both Agribusiness and Production Agricultural settings, is the largest youth organization in the state, benefiting over one million members throughout their existence; and

WHEREAS, the 2003-2004 year marks the Illinois Association FFA's 75<sup>th</sup> Anniversary. The year has been appropriately themed, "Shaping America's Future"; and

WHEREAS, each year, throughout the United States, Puerto Rico, Guam and the Virgin Islands, a week in February is set aside to recognize the FFA:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 22-28, 2004 as FFA WEEK in Illinois, and strongly urge all citizens to recognize and encourage agriculture education and support the ideals and dedication of the Illinois Association FFA.

Issued by the Governor January 13, 2004.

Filed by the Secretary of State January 14, 2004.

**2004-9  
John Deere Day**

WHEREAS, John Deere, who developed the world's first commercially successful, self-scouring steel plow, was born 200 years ago on February 7, 1804; and

WHEREAS, in 1837, John Deere emigrated to the western Illinois pioneer settlement of Grand Detour and set up a blacksmith shop near the Rock River; and

WHEREAS, after fashioning the first self-scouring steel plow, John Deere moved to a water-powered factory along the Mississippi River in Moline; and

WHEREAS, in 1868, John Deere incorporated his business under the name Deere & Company; and

WHEREAS, John Deere established enduring values that have sustained his company for 167 years of quality, integrity, innovation and commitment; and

## PROCLAMATIONS

WHEREAS, Deere & Company today employs 4,725 men and women in nine Illinois cities, including its worldwide headquarters in Moline, and spends more than \$880 million annually through over 2,100 state-based suppliers; and

WHEREAS, worldwide, Deere & Company employs more than 43,000 people and does business in more than 160 countries; and

WHEREAS, Deere & Company today is the world's leading manufacturer of agricultural and forestry equipment, a major manufacturer of construction equipment, and a leading supplier of equipment used in lawn, grounds and turf care; and

WHEREAS, continuing a tradition of giving begun by John Deere more than 165 years ago, Deere & Company today supports hundreds of charitable organizations throughout the state, contributing to the quality of life for Illinois citizens:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim February 7, 2004 as JOHN DEERE DAY in Illinois.

Issued by the Governor January 13, 2004.

Filed by the Secretary of State January 14, 2004.

# ILLINOIS ADMINISTRATIVE CODE

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