

2009

# ILLINOIS

## REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 33, Issue 41  
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## INTRODUCTION

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

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

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

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

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009

22	May 18, 2009	May 29, 2009
23	May 26, 2009	June 5, 2009
<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

**Editor's Note:** The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 13, 2009 to January 4<sup>th</sup>, 2010 by 4:30 pm, as January 1<sup>st</sup> is a holiday and the office will be closed.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Extensions of Jurisdiction
- 2) Code Citation: 80 Ill. Adm. Code 305
- 3) Section Number: 305.270                      Proposed Action:  
New Section
- 4) Statutory Authority: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b]
- 5) A Complete Description of the Subjects and Issues Involved: This change is as result of positions being included into the AFSCME bargaining unit and the agreements with AFSCME Council 31 and Teamsters Local 916 to include certain positions under the Personnel Code. Also includes employees that are not currently covered by a bargaining unit but were legacy Illinois Century Network or Department of Transportation employees that were consolidated to Central Management Services Bureau of Communications and Computer Services.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson  
Illinois Department of Central Management Services

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

720 Stratton Office Building  
Springfield, Illinois 62706

217/785-1793

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on the most recent agendas because: the necessary Memoranda of Agreement with the affected unions were not signed until August, 2009.

The full text of the Proposed Amendment begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 305

## EXTENSIONS OF JURISDICTION

## Section

305.50	Extends Jurisdiction A, B & C
305.60	Extends Jurisdiction A, B & C (July 1, 1970)
305.70	Extends Jurisdiction A, B & C (July 1, 1970)
305.80	Extends Jurisdiction A, B & C (August 1, 1970)
305.90	Extends Jurisdiction A, B & C (August 1, 1971)
305.100	Extends Jurisdiction A, B & C (November 16, 1971)
305.110	Extends Jurisdiction A, B & C (April 1, 1972)
305.120	Extends Jurisdiction A, B & C (May 1, 1972)
305.130	Extends Jurisdiction A & C (October 1, 1972)
305.140	Extends Jurisdiction A & C (October 1, 1972)
305.150	Extends Jurisdiction A, B and C (November 1, 1972)
305.160	Extends Jurisdiction B, Except 8b.1, 8b.3 and 8b.5 (January 1, 1973)
305.170	Extension of Jurisdiction
305.180	Termination of Extension of Jurisdiction
305.190	Extension of Jurisdiction
305.200	Third Extension of Jurisdiction to Office of the Treasurer
305.210	Extends Jurisdiction A, B and C (December 1, 1998)
305.220	Extends Jurisdiction A, B and C (December 1, 1998)
305.230	Extends Jurisdiction A, B and C (July 16, 2002)
305.240	Extends Jurisdiction A, B and C (April 7, 2005)
305.250	Extends Jurisdiction A, B and C (January 16, 2006)
305.260	Extends Jurisdiction A, B and C (November 30, 2008)
<u>305.270</u>	<u>Extends Jurisdiction A, B and C (December 30, 2009)</u>

AUTHORITY: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b].

SOURCE: Filed May 29, 1975; emergency amendment at 2 Ill. Reg. 46, p. 3, effective January 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 1, p. 61, effective January 1, 1979; codified at 7 Ill. Reg. 13214; amended at 10 Ill. Reg. 21643, effective December 15, 1986;

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

amended at 22 Ill. Reg. 21302, effective December 1, 1998; emergency amendment at 26 Ill. Reg. 12060, effective July 16, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16150, effective October 18, 2002; emergency amendment at 29 Ill. Reg. 5751, effective April 7, 2005, for a maximum of 150 days; emergency expired September 3, 2005; amended at 29 Ill. Reg. 14530, effective September 14, 2005; emergency amendment at 30 Ill. Reg. 1378, effective January 16, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 9321, effective May 4, 2006; amended at 32 Ill. Reg. 18931, effective November 30, 2008; amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 305.270 Extends Jurisdiction A, B and C (December 30, 2009)**

- a) Effective December 30, 2009, the Personnel Code Jurisdictions A, B and C will be extended to the Department of Central Management Service's Bureau of Communication and Computer Services positions performing work as network or systems engineers, managers and fiscal and support staff that were transferred into the Department from the Board of Higher Education's Illinois Century Network or information technology staff consolidated from the Illinois Department of Transportation.
- b) With the exception of those employees who have already been determined qualified, the foregoing affected employees in the Bureau will be required to qualify within six months in the same kind of examination as those required for entrance examinations for comparable positions. All other appointments subsequent to December 30, 2009 will be made pursuant to provisions of the Illinois Personnel Code and the rules of the Department of Central Management Services. No provision of this Section in any way affects the status of employees already holding certified status under the Illinois Personnel Code. All other provisions of the Illinois Personnel Code and rules of the Department of Central Management Services will apply to the affected employees effective December 30, 2009.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Optometric Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1320
- 3) 

<u>Section Numbers</u> : 1320.50 1320.70	<u>Proposed Action</u> : Amendment Amendment
------------------------------------------------	----------------------------------------------------
- 4) Statutory Authority: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]
- 5) A Complete Description of the Subjects and Issues Involved: PA 95-242, effective January 1, 2008, allows optometrists to utilize and prescribe oral pharmaceutical agents and requires successful completion of course of study in oral pharmaceutical agents prior to use or issuing any prescriptions. Section 1320.335, adopted February 21, 2008, implemented its provisions. This proposed rulemaking completes that implementation by specifying the new requirements that must be met by out-of-state licensees seeking an Illinois optometric license through the endorsement process, as well as the requirements for re-activating an Illinois license after March 31, 2010.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

Attention: Craig Cellini  
320 West Washington, 3<sup>rd</sup> Floor  
Springfield, IL 62786

217/785-0813      FAX: 217/557-4451

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of optometrists
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: Optometry skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1320

## OPTOMETRIC PRACTICE ACT OF 1987

## SUBPART A: OPTOMETRY

## Section

1320.20	Approved Programs of Optometry
1320.30	Application for Licensure
1320.35	Application for a Limited Residency License
1320.40	Examinations
1320.45	Fees (Emergency Expired)
1320.50	Endorsement
1320.55	Renewals (Renumbered)
1320.60	Inactive Status
1320.70	Restoration
1320.80	Continuing Education
1320.90	Minimum Eye Examination
1320.95	Minimum Equipment List
1320.100	Practice of Optometry
1320.110	Advertising
1320.120	Granting Variances (Renumbered)

## SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

## Section

1320.200	Standards (Repealed)
1320.210	Application for Diagnostic Certification (Repealed)
1320.220	Approved Diagnostic Topical Ocular Pharmacological Training (Repealed)
1320.230	Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act (Repealed)
1320.240	Restoration of Diagnostic Certification (Repealed)
1320.250	Endorsement of Diagnostic Certification (Repealed)
1320.260	Renewal of Certification (Repealed)
1320.270	Display of Certification (Repealed)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR  
PHARMACEUTICAL AGENTS

Section	
1320.300	Definitions and Standards
1320.310	Application for Therapeutic Certification (Repealed)
1320.315	Controlled Substance License Requirement
1320.320	Approved Therapeutic Ocular Training (Repealed)
1320.330	Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
1320.335	Oral Pharmaceutical Agents
1320.340	Restoration of Therapeutic Certification (Repealed)
1320.350	Endorsement of Therapeutic Certification (Repealed)

## SUBPART D: GENERAL

Section	
1320.400	Fees
1320.410	Ancillary Licenses
1320.420	Renewals
1320.430	Granting Variances

**AUTHORITY:** Optometric Practice Act of 1987 [225 ILCS 80]; Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

**SOURCE:** Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at 17 Ill. Reg. 21501, effective December 1, 1993; amended at 19 Ill. Reg. 17150, effective December 19, 1995; amended at 20 Ill. Reg. 9068, effective July 1, 1996; amended at 21 Ill. Reg.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

16040, effective November 24, 1997; amended at 23 Ill. Reg. 5744, effective April 30, 1999; amended at 24 Ill. Reg. 3656, effective February 15, 2000; amended at 27 Ill. Reg. 2677, effective January 31, 2003; amended at 28 Ill. Reg. 4945, effective March 3, 2004; amended at 28 Ill. Reg. 16247, effective December 2, 2004; amended at 29 Ill. Reg. 20616, effective December 6, 2005; amended at 31 Ill. Reg. 4339, effective March 5, 2007; amended at 32 Ill. Reg. 3243, effective February 21, 2008; amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: OPTOMETRY

**Section 1320.50 Endorsement**

- a) An applicant who is licensed under the laws of another jurisdiction shall file an application with the Division together with:
  - 1) Certification of Graduation
    - A) Certification of graduation after ~~January 1, 2008~~January 1, 1994 from an optometry program approved by the Division in accordance with Section 1320.20; or
    - B) Certification of graduation between January 1, 1994 and December 31, 2007 from an optometry program approved by the Division in accordance with Section 1320.20; and
      - i) The submission of evidence that the applicant has practiced optometry for a minimum of 5 years utilizing ocular pharmaceutical agents including oral agents under the laws of another jurisdiction that are deemed by the Board, pursuant to subsection (b), to be substantially equivalent to those of Illinois; or
      - ii) The submission of evidence of completion of a course or its equivalent as determined by the Board, pursuant to subsection (b), in oral ocular pharmaceutical agents as designated in Section 1320.335(b).
    - C) Certification of graduation prior to January 1, 1994 from an optometry program approved by the Division in accordance with

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

Section 1320.20; and

- i) The submission of evidence that the applicant has practiced optometry for a minimum of 10 years utilizing ~~oculartherapeutic and diagnostic~~ pharmaceutical agents under the laws of another jurisdiction that are deemed by the Board to be substantially equivalent to those of Illinois ~~and that the applicant has done so with no related disciplinary action~~; or
- ii) The submission of evidence of completion of:
  - a course or its equivalent as determined by the Board in diagnostic pharmaceutical agents. The course shall be approved by the Division upon the recommendation of the Board and shall include a curriculum of at least 55 hours of lecture in the diagnosis of eye disease, including the use of diagnostic pharmaceutical agents. The course shall be conducted by an approved school of optometry and shall include a comprehensive examination. Documentation of the content of the course shall be provided to the Division by the applicant; and
  - a 120 hour course in ~~oculartherapeutic~~ pharmaceutical agents or its equivalent, as determined by the Board, within three years prior to application. The course shall be approved by the Division upon the recommendation of the Board and shall include a curriculum of at least 90 hours of lecture and at least 30 hours of practical laboratory in the treatment of the eye using ~~oculartherapeutic~~ pharmaceutical agents that includes foreign body removal and clinical patient care. The program shall be conducted at an approved school of optometry and shall include the passage of a comprehensive examination designed to test the student's knowledge, competence and ability. Applicants will be required to submit

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

documentation of the course to the Division when applying under this subsection (a)(2);

- 2) Certification from the jurisdiction of original licensure and current licensure stating:
    - A) The period of time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
    - B) A description of the licensure examination in that jurisdiction;
    - C) Whether the records of the licensing entity contains any record of disciplinary actions taken or pending against the applicant;
  - 3) Certification of passage of Part I and Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section after January 1, 1996, of the National Board of Examiners in Optometry (NBEO) examination, by NBEO standards;
  - 4) Certification of passage of Part III of the examination administered by NBEO, by NBEO standards, or an equivalent comprehensive practical examination administered in another jurisdiction; and
  - 5) The required fee as set forth in Section 1320.400.
- b) The Division shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensure were substantially equivalent to the requirements then in force in this State. The applicant may be required to submit a copy of the Act and rules in effect at the time of original licensure. If an applicant has taken a licensure examination other than Part I and Part II of the National Board prior to 1970, the examination and results will be required by the Board to determine that substantially equivalent requirements have been met. The Division shall within a reasonable time either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.
  - c) The Division may, in individual cases, upon recommendation of the Board, in accordance with Section 12 of the Act, waive the comprehensive practical

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

examination for an applicant for endorsement, after full consideration of his/her optometric education, training and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to optometry, and any other attribute which the Board accepts as evidence that such applicant has outstanding and proven ability in optometry.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1320.70 Restoration**

- a) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 3 years shall file an application, on forms supplied by the Division, together with:
  - 1) Proof of current certification in cardiopulmonary resuscitation and completion of the continuing education requirements during the 2 years prior to restoration in accordance with Section 1320.80 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs;
  - 2) Either:
    - A) Evidence of an existing therapeutic pharmaceutical agent certification at the time the license was placed in inactive or expired status; or
    - B) Proof of completion of the requirements of Section 1320.50(a)(1)(A), ~~(B)~~ or ~~(C)-(B)~~; and
  - 3) The proper fees, either:
    - A) The restoration fees, when restoring an expired license, specified in Section 1320.400(c)(1)-of this Part; or
    - B) The renewal fees, when restoring an inactive license, specified in Section 1320.400(b)(1)-of this Part.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- b) In addition to satisfying the requirements of subsection (a), the licensee shall also submit:
- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;
  - 2) An affidavit attesting to military service as provided in Section 16 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 16 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;
  - 3) Evidence of other education or experience acceptable to the Division of the licensee's fitness to have the certificate restored. Such evidence shall be reviewed on a case by case basis by the Board; or
  - 4) Certification of passage of Part III of the examination administered by NBEO, by NBEO standards. The Board may, in its discretion and in individual cases, make a recommendation to the Director for the waiver of the clinical skills examination or Part III of the examination in accordance with Section 11 of the Act based on quality of education, training and experience including, but not limited to, special honors and awards, articles published in optometry journals, writing or participation in the writing of textbooks in optometry or any other circumstances or attribute which the Board accepts as evidence that such applicant has outstanding and proven ability in optometry.
- c) A licensee seeking restoration of a license that has expired or been on inactive status for less than 3 years, or has been placed in non-renewed status for failure to comply with continuing education (CE) requirements shall file an application on forms provided by the Division, together with:
- 1) Proof of current certification in cardiopulmonary resuscitation and completion of continuing education (CE) requirements during the 2 years prior to restoration in accordance with Section 1320.80 ~~of this Part~~. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 2) Either:
  - A) Evidence of an existing therapeutic pharmaceutical agent certification at the time the license was placed in inactive or expired status; or
  - B) Proof of completion of the requirements of Section 1320.50(a)(1)(A), (B) or (C)~~(B)~~; and
- 3) The restoration fees specified in Section 1320.400 ~~of this Part~~. For the purpose of restoring from inactive status the Division shall consider that no renewal fees have lapsed during the period of inactive status.
- d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.
- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is reasonably questioned by the Division because of a lack of information, discrepancies or conflicts in information given, or there is a need for clarification, the licensee seeking restoration of the license will be requested to:
  - 1) Provide such information as may be necessary; and/or
  - 2) Appear for interviews before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Board, and approval by the Division, an applicant shall have the license restored.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Licensing Requirements for Land Disposal of Radioactive Waste
- 2) Code Citation: 32 Ill. Adm. Code 601
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
601.10	Repealed
601.20	Repealed
601.30	Repealed
601.50	Repealed
601.60	Repealed
601.70	Repealed
601.80	Repealed
601.90	Repealed
601.100	Repealed
601.110	Repealed
601.120	Repealed
601.130	Repealed
601.140	Repealed
601.150	Repealed
601.160	Repealed
601.170	Repealed
601.180	Repealed
601.190	Repealed
601.200	Repealed
601.210	Repealed
601.220	Repealed
601.230	Repealed
601.240	Repealed
601.250	Repealed
601.260	Repealed
601.270	Repealed
601.280	Repealed
601.290	Repealed
601.300	Repealed
601.310	Repealed
601.320	Repealed
601.330	Repealed
601.340	Repealed
601.350	Repealed

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- 4) Statutory Authority: Implementing and authorized by the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20]
- 5) A Complete Description of the Subjects and Issues Involved: Repeals the Part last amended on May 1, 1996. A new Part is being proposed to replace this repealed Part.
- 6) Will this repealer replace any emergency repealer currently in effect? No
- 7) Does this repealer contain an automatic repeal date? No
- 8) Does this repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed repealer are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this proposed repealer:

Public Hearing  
Tuesday, November 17, 2009  
1:00 to 4:00 PM  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois

Comments on this proposed repealer may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed repealer submitted during the 45 day comment period. Comments should be submitted to:

Louise M. Michels  
Staff Attorney  
Illinois Emergency Management Agency  
1035 Outer Park Drive

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Springfield, Illinois 62704

217/785-9876 (voice)

217/782-6133 (TDD)

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this repealer was summarized: July 2009

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

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## TITLE 32: ENERGY

## CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

## SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

## PART 601

LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE  
(REPEALED)

## Section

601.10	Purpose and Scope
601.20	Definitions
601.30	License Required
601.50	Content of Application
601.60	General Information
601.70	Specific Technical Information
601.80	Technical Analyses
601.90	Institutional Information
601.100	Financial Information
601.110	Standards for Issuance of a License
601.120	Conditions of Licenses
601.130	Application for Renewal or Closure
601.140	Contents of Application for Closure
601.150	Post-Closure Observation and Maintenance
601.160	Post-Closure Procedures
601.170	Termination of License
601.180	Performance Objectives – General Requirement
601.190	Performance Objectives – Protection of the General Population from Releases of Radioactivity
601.200	Performance Objectives – Protection of Individuals from Inadvertent Intrusion
601.210	Performance Objectives – Protection of Individuals During Operations
601.220	Performance Objectives – Stability of the Disposal Site After Closure
601.230	Technical Requirements – Disposal Site Suitability Requirements for Land Disposal
601.240	Technical Requirements – Disposal Site Design for Land Disposal
601.250	Technical Requirements – Land Disposal Facility Operation and Disposal Site Closure
601.260	Technical Requirements – Environmental Monitoring
601.270	Technical Requirements – Alternative Requirements for Design and Operations
601.280	Institutional Requirements

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601.290	Alternative Requirements for Waste Classification and Characteristics
601.300	Applicant Qualifications and Assurances
601.310	Funding for Disposal Site Closure and Stabilization
601.320	Financial Assurances for Institutional Controls
601.330	Maintenance of Records, Reports, and Transfers
601.340	Tests at Land Disposal Facilities
601.350	Department Inspections of Land Disposal Facilities

**AUTHORITY:** Implementing and authorized by the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20].

**SOURCE:** Adopted at 10 Ill. Reg. 17465, effective September 25, 1986; amended at 18 Ill. Reg. 16579, effective November 1, 1994; amended at 20 Ill. Reg. 6904, effective May 1, 1996; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; repealed at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 601.10 Purpose and Scope**

- a) The regulations in this Part establish procedures, criteria, and terms and conditions upon which the Department of Nuclear Safety (Department) issues licenses for the land disposal of radioactive wastes if such disposal is away from the point of generation or if such disposal is of waste which has been received from other persons. Disposal of waste by an individual licensee is set forth in 32 Ill. Adm. Code 340. The requirements of this Part are in addition to, and not in substitution for, the requirements of 32 Ill. Adm. Code 310, 320, 330, 331, 340, 341, 350, 351, and 400.
- b) The regulations in this Part do not apply to disposal of licensed material as provided for in 32 Ill. Adm. Code 340.
- c) This Part contains procedural requirements and performance objectives applicable to any method of land disposal.

**Section 601.20 Definitions**

As used in this Part, the following definitions apply:

"Active maintenance" means activity which is needed during the period of institutional control to assure that the performance objectives in Sections 601.190

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and 601.200 are met. Such active maintenance includes ongoing activities such as the pumping and treatment of water from a disposal unit or one-time measures such as replacement of a disposal unit cover. Active maintenance does not include custodial activities such as repair of fences, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

"Buffer zone" means a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

"Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, glucinic acid and polycarboxylic acids.

"Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a land disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of the environment.

"Custodial agency" means an agency of the government designated to act on behalf of the government owner of the disposal site.

"Disposal" means the isolation of radioactive wastes from the biosphere inhabited by persons and their food chains by emplacement in a land disposal facility.

"Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

"Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal.

"Engineered barrier" means a man-made structure or device that is intended to improve the land disposal facility's ability to meet the performance objectives in this Part.

"Explosive material" means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by

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contact with sparks or flame.

"Hazardous waste" means those wastes designated as hazardous by the U.S. Environmental Protection Agency regulations in 40 CFR 261, effective July 1, 1984.

"Hydrogeologic unit" means any soil or rock unit or zone which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.

"Inadvertent intruder" means a person who might occupy the disposal site after closure and engage in normal activities, such as agriculture, dwelling construction, or other pursuits in which an individual might be unknowingly exposed to radiation from the waste.

"Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this Part, or engineered structures that provide equivalent protection to the inadvertent intruder.

"Land disposal" – see "Land disposal facility".

"Land disposal facility" means the land, buildings and structures and equipment which are intended to be used for the disposal of radioactive wastes.

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal site.

"Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.5° C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

"Site closure and stabilization" means those actions that are taken upon completion of operations that prepare the disposal site for custodial care and that assure that the disposal site will remain stable and will not need ongoing active

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maintenance.

"Stability" means structural stability.

"Surveillance" means monitoring and observation of the disposal site for purposes of visual detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements.

"Waste" means those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act (P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986), i.e., radioactive material that (A) is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2))); and (B) the Nuclear Regulatory Commission, consistent with existing law and in accordance with (A) above, classifies as low-level radioactive waste.

AGENCY NOTE: The reference to byproduct material as used in this definition has the same meaning as contained in Section 2014(e)(2) of the Atomic Energy Act, also referred to by its former designation of Section 11e.(2) of the Atomic Energy Act.

**Section 601.30 License Required**

- a) No person may receive, possess, and dispose of waste received from other persons at a land disposal facility unless authorized by a license issued by the Department pursuant to this Part and 32 Ill. Adm. Code 330.
- b) Each person shall file an application with the Department pursuant to 32 Ill. Adm. Code 330.240 and obtain a license as provided in this Part before commencing construction of a land disposal facility. Failure to comply with this requirement shall be grounds for denial of a license.

**Section 601.50 Content of Application**

In addition to the requirements set forth in 32 Ill. Adm. Code 330.250, an application for a license to receive from others, possess, and dispose of wastes shall consist of general information, specific technical information, institutional information, and financial information as set forth in Sections 601.60 through 601.100.

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**Section 601.60 General Information**

The general information shall include each of the following:

- a) Identity and qualifications of the applicant including:
  - 1) The full name, address, telephone number and description of the business or occupation of the applicant;
  - 2) If the applicant is a partnership, the name and address of each partner and the principal location where the partnership does business;
  - 3) If the applicant is a corporation or an unincorporated association:
    - A) the state where it is incorporated or organized and the principal location where it does business; and
    - B) the names and addresses of its directors and principal officers;
  - 4) The organizational structure of the applicant, both offsite and onsite, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;
  - 5) The technical qualifications, including training and experience, of the applicant and members of the applicant's staff to engage in the proposed activities. Minimum training and experience requirements for personnel filling key positions described in Section 601.60(a)(5) must be provided;
  - 6) A description of the applicant's personnel training program;
  - 7) The plan to maintain an adequate complement of trained personnel to carry out waste receipt, handling, and disposal operations in a safe manner; and
  - 8) If the applicant is acting as an agent or representative of another person in filing the application, all information required under this Section must be supplied with respect to the other person.

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- b) A description of:
  - 1) The location of the proposed disposal site;
  - 2) The general character of the proposed handling, storage, treatment, and/or disposal activities;
  - 3) The types and quantities of radioactive waste to be received, possessed, and disposed of;
  - 4) Plans for use of the land disposal facility for purposes other than disposal of radioactive wastes; and
  - 5) The proposed facilities and equipment.
- c) Proposed schedules for construction, receipt of waste, and first emplacement of waste at the proposed land disposal facility.

**Section 601.70 Specific Technical Information**

Specific technical information pertaining to site suitability shall be provided to demonstrate that the performance objectives and the applicable technical requirements of this Part will be met:

- a) A description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities. The description shall include geologic, geotechnical, hydrologic, meteorologic, climatologic, and biotic features of the disposal site and vicinity.
- b) A description of the design features of the land disposal facility and the disposal units. The description shall include design features related to infiltration of water; integrity of covers for disposal units; structural stability of filling material, wastes, and covers; contact of wastes with standing water; disposal site drainage; disposal site closure and stabilization; elimination to the extent practicable of long-term disposal site maintenance; inadvertent intrusion; occupational exposures; disposal site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures.
- c) An environmental assessment describing the impacts that the disposal site will

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have on the environment.

- d) A description of the principal design criteria and their relationship to the performance objectives.
- e) A description of the design basis natural events or phenomena and their relationship to the principal design criteria.
- f) A description of codes and standards which the applicant has applied to the design and which will apply to construction of the land disposal facilities. Such standards shall meet local, state and national building code standards.
- g) A description of the construction and operation of the land disposal facility. The description shall include as a minimum the methods of construction of disposal units; waste emplacement; the procedures for and areas of waste segregation; types of intruder barriers; onsite traffic and drainage systems; survey control program; methods and areas of waste storage; and methods to control surface water and groundwater access to the wastes. The description shall also include a description of the methods to be employed in the handling and disposal of wastes containing chelating agents or other nonradiological substances that might affect meeting the performance objectives of this Part.
- h) A description of the disposal site closure plan, including those design features which are intended to facilitate disposal site closure and to eliminate the need for ongoing active maintenance.
- i) An identification of the known natural resources at the disposal site whose exploitation could result in inadvertent intrusion into the low-level wastes after removal of active institutional control.
- j) A description of the kind, amount, classification, and specifications of the radioactive material proposed to be received, possessed, and disposed of at the land disposal facility.
- k) A description of the quality assurance program, tailored to low-level radioactive waste (LLW) disposal for the determination of natural disposal site characteristics and for quality control during the design, construction, operation, and closure of the land disposal facility and the receipt, handling, and emplacement of waste. Audits and managerial controls must be included.

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- l) A description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with the performance objective in Section 601.190 and occupational radiation exposure to ensure compliance with the requirements of 32 Ill. Adm. Code 340 and to control contamination of personnel, vehicles, equipment, buildings, and the disposal site. Both routine operations and accidents shall be addressed. The program description must include procedures, instrumentation, facilities, and equipment.
- m) A description of the environmental monitoring program including the frequency, type, and method of analysis to provide data to evaluate potential health and environmental impacts and the plan for taking corrective measures if migration of radionuclides is indicated.
- n) A description of the administrative procedures that the applicant will apply to control activities at the land disposal facility.

**Section 601.80 Technical Analyses**

The specific technical information shall also include the following analyses needed to demonstrate that the performance objectives of this Part will be met:

- a) Pathways analyzed in demonstrating protection of the general population from releases of radioactivity shall include air, soil, groundwater, surface water, plant uptake, and exhumation by burrowing animals. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall assure that the exposures to humans from the release of radioactivity will not exceed the limits set forth in Section 601.190.
- b) Analyses of the protection of individuals from inadvertent intrusion will establish that the waste classification and segregation requirements will be met and that barriers to inadvertent intrusion will be provided.
- c) Analyses of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and potential accidents during handling, storage, and disposal of waste. The analyses shall assure that exposures will be controlled to meet the requirements of 32 Ill. Adm. Code 340.

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- d) Analyses of the long-term stability of the disposal site and the need for ongoing active maintenance after closure shall be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses shall assure that there will not be a need for ongoing active maintenance of the disposal site following closure.

**Section 601.90 Institutional Information**

The institutional information submitted by the applicant shall include:

- a) A certification by the Federal or State agency which owns the land that the Department is prepared to accept transfer of the license when the provisions of Section 601.160 are met, and will assume responsibility for custodial care after site closure and post-closure observation and maintenance.
- b) Where the proposed disposal site is on land not owned by the Federal or State government, the applicant shall submit evidence that arrangements have been made for assumption of ownership in fee simple absolute by the Department before the Department issues a license.

**Section 601.100 Financial Information**

The financial information shall demonstrate that the financial qualifications of the applicant are adequate to carry out the activities for which the license is sought and meet all other financial requirements of this Part.

**Section 601.110 Standards for Issuance of a License**

A license for the receipt, possession, and disposal of waste containing or contaminated with radioactive material will be issued by the Department upon finding that:

- a) The issuance of the license will not constitute an unreasonable risk to the health and safety of the public;
- b) The applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property;

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- c) The applicant's proposed disposal site, disposal design, land disposal facility operations, including equipment, facilities, and procedures, disposal site closure, and post-closure institutional care will protect the public health and safety in that they provide assurance that the general population will be protected from releases of radioactivity including protection from releases in the public water supply in accordance with the performance objective in Section 601.190;
- d) The applicant's proposed disposal site, disposal site design, land disposal facility operations, including equipment, facilities, and procedures, disposal site closure, and post-closure institutional control will protect the public health and safety in that they will provide assurance that inadvertent intruders are protected in accordance with the performance objective in Section 601.200;
- e) The applicant's proposed land disposal facility operations, including equipment, facilities, and procedures, will protect the public health and safety in that they will provide assurance that the standards for radiation protection set out in 32 Ill. Adm. Code 340 will be met;
- f) The applicant's proposed disposal site, disposal site design, land disposal facility operations, disposal site closure, and post-closure institutional control will protect the public health and safety in that they will provide assurance that long-term stability of the disposed waste and the disposal site will be achieved and will eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure;
- g) The applicant's demonstration provides assurance that the applicable technical requirements of this Part will be met;
- h) The applicant's proposal for institutional control shall assure that such control will be provided for the length of time found necessary to ensure the findings in Section 601.110(c) through (f) and that the institutional control meets the requirements of Section 601.280; and
- i) The information on financial assurances meets the requirements of Section 601.310.

**Section 601.120 Conditions of Licenses**

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- a) A license issued under this Part, or any right thereunder, may not be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Department finds, after securing full information, that the transfer is in accordance with the provisions of the Radiation Protection Act (Ill. Rev. Stat. 1985, ch. 111½, pars. 211 et seq.), the Illinois Low-Level Radioactive Waste Management Act (Ill. Rev. Stat. 1985, ch. 111½, pars. 241 et seq.) and this Part and gives its consent in writing in the form of a license amendment.
- b) The Department shall have the authority to suspend or revoke a license at any time before the termination of a license. Such action shall only be taken after written notice has been given to the licensee and a hearing has been held in accordance with 32 Ill. Adm. Code 200, except that in the event of an immediate threat to health or safety, the Department may take immediate action pending a final determination in a hearing.
- c) No license may be terminated unless the final closure plan is fully implemented as approved by the Department, including post-closure observation and maintenance in accordance with this Part.
- d) The terms and conditions of the license are subject to amendment, revision, or modification, by reason of amendments to, or by reason of rules, regulations, and orders issued in accordance with the terms of the Radiation Protection Act and the Illinois Low-Level Radioactive Waste Management Act.
- e) Each person licensed by the Department pursuant to the regulations in this Part shall confine possession and use of radioactive materials to the locations and purposes authorized in the license.
- f) The licensee shall not dispose of waste until the licensee has received written notification from the Department that the Department has inspected the land disposal facility and has found it to be in conformance with the description, design, and construction described in the application for a license.
- g) The Department may incorporate in any license at the time of issuance, or thereafter, by appropriate rule, regulation or order, additional requirements and conditions with respect to the licensee's receipt, possession, and disposal of waste as it deems appropriate or necessary in order to:

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- 1) Protect health or to minimize danger to life or property;
  - 2) Require reports and the keeping of records, and to provide for inspections of activities under the license that may be necessary or appropriate to effectuate the purposes of the Radiation Protection Act, the Illinois Low-Level Radioactive Waste Management Act and regulations issued thereunder.
- h) The authority to dispose of wastes expires on the date stated in the license. Any expiration date on a license applies only to the site operations activities and to the authority to dispose of waste. Failure to renew the license shall not relieve the licensee of responsibility for carrying out site closure and post-closure observation and transfer of the license to the site owner.

**Section 601.130 Application for Renewal or Closure**

- a) An application for renewal or an application for closure under Section 601.140 must be filed at least 90 days prior to license expiration.
- b) Applications for renewal of a license must be filed in accordance with Sections 601.50 through 601.100. Applications for closure must be filed in accordance with Section 601.140. Information contained in previous applications, statements or reports filed with the Department under the license may be incorporated by reference if the references are clear and specific.
- c) In any case in which a licensee has filed an application in proper form for renewal of a license, the license does not expire until the Department has taken final action on the application for renewal.
- d) In determining whether a license will be renewed, the Department will apply the criteria set forth in Section 601.110.

**Section 601.140 Contents of Application for Closure**

- a) Prior to final closure of the disposal site, the applicant shall submit an application to amend the license for final closure. This final closure application shall include a final revision and specific details of the disposal site final closure plan included as part of the license application submitted under Section 601.70(g) that includes each of the following:

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- 1) Any additional geologic, hydrologic, or other data pertinent to the long-term containment of emplaced wastes obtained during the operational period.
  - 2) The results of tests, experiments, or any other analyses relating to filling material or excavated areas, final closure and sealing, waste migration and interaction with emplacement media, or any other tests, experiments, or analysis pertinent to the long-term containment of emplaced waste within the disposal site.
  - 3) Any proposed revision of plans for:
    - A) Decontamination and/or dismantlement of surface facilities;
    - B) Backfilling of excavated areas; or
    - C) Stabilization of the disposal site for post-closure care.
  - 4) Any new information regarding the environmental impact of final closure activities and long-term performance of the disposal site.
- b) Upon review and consideration of an application to amend the license for final closure submitted in accordance with Section 601.140(a), the Department shall issue an amendment authorizing final closure if the licensee provides assurance that the long-term performance objectives of Sections 601.180, 190, 200, 210 and 220 will be met.

**Section 601.150 Post-Closure Observation and Maintenance**

The licensee shall observe, monitor, and carry out maintenance and repairs at the disposal site until the site closure is complete and the license is transferred by the Department in accordance with Section 601.160. Responsibility for the disposal site must be maintained by the licensee for five (5) years. A longer time period for post-closure observation and maintenance may be required as part of the site closure plan, based upon site-specific conditions.

**Section 601.160 Post-Closure Procedures**

Following closure and the period of post-closure observation and maintenance, the licensee may

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apply for an amendment to transfer the custody of the disposal site to the appropriate State or Federal agency. Permission for such transfer shall be contingent upon a finding by the Department:

- a) That the closure of the disposal site has been made in conformance with the licensee's disposal site closure plan, as amended and approved as part of the license;
- b) That the performance objectives of this Part are met;
- c) That any funds and necessary records for care will be transferred to the State or Federal agency which will assume ownership of the disposal site;
- d) That the post-closure monitoring program is operational for implementation by the State or Federal agency which will assume responsibility for institutional control of the disposal site; and
- e) That the Federal or State agency which will assume responsibility for institutional control of the disposal site is prepared to assume responsibility and ensure that the institutional requirements found necessary under Section 601.110(h) will be met.

**Section 601.170 Termination of License**

- a) Following the period of institutional control required in accordance with Section 601.150 and upon establishing that the requirements of Section 601.110 have been met, the licensee may apply for an amendment to terminate the license.
- b) This application will be reviewed in accordance with the provisions of this Part and 32 Ill. Adm. Code 330.250.
- c) A license will be terminated only if the Department finds:
  - 1) That the requirements of 32 Ill. Adm. Code 330.250 and this Part have been met;
  - 2) That the institutional control requirements under Section 601.110(h) have been met; and
  - 3) That any additional requirements resulting from new information

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developed during the institutional control period have been met and that permanent monuments or markers warning against intrusion have been installed.

**Section 601.180 Performance Objectives – General Requirement**

Land disposal facilities shall be sited, designed, operated, closed, and controlled after closure to assure that exposures to individuals are within the limits established in the performance objectives in Sections 601.190 through 601.220.

**Section 601.190 Performance Objectives – Protection of the General Population from Releases of Radioactivity**

Concentrations of radioactive material which may be released to the general environment in ground water, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of any member of the public. The licensee shall assume initiatives which are necessary to maintain releases of radioactivity in effluents to the general environment as low as is reasonably achievable.

**Section 601.200 Performance Objectives – Protection of Individuals from Inadvertent Intrusion**

Design, operation, and closure of the land disposal facility shall ensure protection of any individual inadvertently intruding into the disposal site and occupying the site or contacting the waste at any time after active institutional controls over the disposal site are removed.

**Section 601.210 Performance Objectives – Protection of Individuals During Operations**

Operations at the land disposal facility shall be conducted in compliance with the standards for radiation protection set out in 32 Ill. Adm. Code 340, except for releases of radioactivity in effluents from the land disposal facility, which shall be governed by Section 601.190. The licensee shall assume initiatives which are necessary to maintain radiation exposures as low as is reasonably achievable.

**Section 601.220 Performance Objectives – Stability of the Disposal Site After Closure**

The disposal facility shall be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site and to eliminate, to the extent practicable, the need for ongoing

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active maintenance of the disposal site following closure so that only surveillance, monitoring, or minor custodial care is required.

**Section 601.230 Technical Requirements – Disposal Site Suitability Requirements for Land Disposal**

The following minimum characteristics shall be used in determining a site acceptable for use as a disposal facility:

- a) The primary emphasis in disposal site suitability is isolation of wastes, and the disposal site features that ensure that the long-term performance objectives are met.
- b) The disposal site shall be capable of being characterized, modeled, analyzed and monitored.
- c) Within the region where the facility is to be located, a disposal site shall be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of this Part.
- d) Areas shall be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of this Part.
- e) The disposal site shall be generally well drained and free of areas of standing water or flooding or frequent ponding. Waste disposal shall not take place in a 100-year flood plain, as defined in the rules of the Illinois Department of Transportation, 92 Ill. Adm. Code 706, Subpart C.
- f) Upstream drainage areas shall be minimized to decrease the amount of runoff which could erode or inundate waste disposal units.
- g) The disposal site shall provide sufficient depth to the water table that ground water intrusion, perennial or otherwise, into the waste will not occur. The Department will consider an exception to this requirement to allow disposal below the water table if it can be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives being met. In no case will waste disposal be permitted in the zone of

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fluctuation of the water table.

- h) The hydrogeologic unit used for disposal shall not discharge ground water to the surface within the disposal site.
- i) Areas shall be avoided where tectonic processes such as faulting, folding, seismic activity or vulcanism occur with such frequency and to such an extent that they would affect the ability of the disposal site to meet the performance objectives of this Part or would preclude defensible modeling and prediction of long-term impacts.
- j) Areas shall be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding, or weathering occur with such frequency and to such an extent that they would affect the ability of the disposal site to meet the performance objectives of this Part, or would preclude defensible modeling and prediction of long-term impacts.
- k) The disposal site must not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of this Part or significantly mask the environmental monitoring program.

**Section 601.240 Technical Requirements – Disposal Site Design for Land Disposal**

- a) Site design features shall be directed toward long-term isolation and avoidance of the need for continuing active maintenance after site closure.
- b) The disposal site design and operation shall be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that assures that the performance objectives will be met.
- c) The disposal site shall be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives will be met.
- d) Covers shall be designed to minimize to the extent practicable water infiltration, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.
- e) Surface features shall direct surface water drainage away from disposal units at

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velocities and gradients which will not result in erosion that will require ongoing active maintenance in the future.

- f) The disposal site shall be designed to minimize to the extent practicable the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

**Section 601.250 Technical Requirements – Land Disposal Facility Operation and Disposal Site Closure**

- a) Wastes designated as Class A pursuant to 32 Ill. Adm. Code 340.3070 shall be segregated from other wastes by placing in disposal units which are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives of this Part. This segregation is not necessary for Class A wastes if they meet the stability requirements in 32 Ill. Adm. Code 340.3080(b).
- b) Wastes designated as Class C pursuant to 32 Ill. Adm. Code 340.3070 shall be disposed of so that the waste is protected by a barrier of a minimum of 5 meters or must be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years.
- c) Except as provided in subsection (l) only waste classified as Class A, B, or C shall be acceptable for disposal. All waste shall be disposed of in accordance with requirements of subsections (d) through (k).
- d) Wastes shall be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.
- e) Void spaces between waste packages shall be filled with earth or other material to reduce future subsidence.
- f) Waste shall be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels which at a minimum will permit the licensee to comply with all provisions of 32 Ill. Adm. Code 340.1050 at the time the disposal facility is transferred to the custody of a State or Federal agency pursuant to Section 601.160.

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- g) The boundaries and locations of each disposal unit shall be accurately located and mapped by means of a land survey. Disposal units shall be marked in such a way that the boundaries of each unit can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey (USGS) or National Geodetic Survey (NGS) survey control stations, shall be established on the site to facilitate surveys. The USGS or NGS control stations shall provide horizontal and vertical controls as checked against USGS or NGS record files.
- h) A buffer zone of land shall be maintained between disposed waste and the disposal site boundary. The buffer zone shall be of adequate dimensions to carry out environmental monitoring activities specified in Section 601.260(d) and take mitigative measures if needed.
- i) Closure and stabilization measures as set forth in the approved site closure plan shall be carried out as each disposal unit is filled and enclosed.
- j) Active waste disposal operations shall not have an adverse effect on completed closure and stabilization measures.
- k) Only wastes containing or contaminated with radioactive materials shall be disposed of at the disposal site.
- l) Proposals for disposal of waste that is not otherwise acceptable for disposal because the waste form and disposal methods must be different, must be submitted to the Department for approval.

**Section 601.260 Technical Requirements – Environmental Monitoring**

- a) At the time a license application is submitted, the applicant shall have conducted a preoperational monitoring program to provide basic environmental data on the disposal site characteristics. The applicant shall obtain information about the ecology, meteorology, climate, hydrology, geology, geochemistry, and seismology of the disposal site. For those characteristics that are subject to seasonal variation, data must cover at least a twelve (12) month period.
- b) During the land disposal facility site construction and operation, the licensee shall maintain an environmental monitoring program. Measurements and observations must be made and recorded to provide data to evaluate the potential health and

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environmental impacts during both the construction and the operation of the facility and to enable the evaluation of long-term effects and the need for mitigative measures. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.

- c) After the disposal site is closed, the licensee responsible for postoperational surveillance of the disposal site shall maintain a monitoring system based on the past monitoring performance and the closure and stabilization of the disposal site. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.
- d) The licensee shall have plans for taking corrective measures if the environmental monitoring program detects migration of radionuclides which would indicate that the performance objectives may not be met.

**Section 601.270 Technical Requirements – Alternative Requirements for Design and Operations**

The Department shall, upon request or on its own initiative, authorize provisions other than those set forth in Sections 601.240 through 601.260 for the segregation and disposal of waste and for the design and operation of a land disposal facility on a specific basis only if the Department establishes that performance objectives of this Part will be complied with.

**Section 601.280 Institutional Requirements**

- a) Land ownership. Disposal of radioactive waste received from other persons may be permitted only on land owned in fee simple absolute by the Federal or State government.
- b) Institutional control. The Department will carry out an institutional control program which will physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program shall include, but not be limited to, carrying out an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, as determined by the Department; and administration of funds to cover the costs for these activities. Controls may not be relied upon for more than 100 years following transfer of control of the disposal site by the licensee.

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**Section 601.290 Alternative Requirements for Waste Classification and Characteristics**

The Department shall, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste on a specific basis, only if, after evaluation of the specific characteristics of the waste, disposal site, and method of disposal, the Department finds the performance objectives specified in this Part will be met.

**Section 601.300 Applicant Qualifications and Assurances**

Each applicant shall show that it either possesses the necessary funds and/or has reasonable assurance of obtaining the necessary funds, to cover the estimated costs of conducting all licensed activities over the planned operating life of the project, including costs of construction and disposal.

**Section 601.310 Funding for Disposal Site Closure and Stabilization**

- a) The applicant shall provide assurances prior to the commencement of operations that sufficient funds will be available to carry out disposal site closure and stabilization. These assurances shall be based on Department-approved cost estimates reflecting the Department approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work. The assurances shall establish that there will be sufficient funds for:
  - 1) decontamination or dismantlement of land disposal facility structures; and
  - 2) closure and stabilization of the disposal site so that following transfer of custody of the disposal site to the State or Federal government, the need for ongoing active maintenance is eliminated to the extent practicable and only minor custodial care, surveillance, and monitoring are required.
- b) In order to avoid unnecessary duplication and expense, the Department will accept financial sureties that have been consolidated with earmarked financial or surety arrangements established to meet requirements of other Federal or State agencies and/or local governing bodies for such decontamination, closure and stabilization. The Department will accept these arrangements only if the Department considers them to be adequate to satisfy these requirements and that

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the portion of the surety which covers the closure of the disposal site is clearly identified and committed for use in accomplishing these activities.

- c) The licensee's surety mechanism will be submitted annually for review by the Department to assure that sufficient funds are available for completion of the closure plan, assuming that the work has to be performed by an independent contractor.
- d) The amount of surety liability will be considered in accordance with the projected cost of future closure and stabilization. Factors affecting closure and stabilization cost estimates include: inflation; increases in the amount of disturbed land; changes in engineering plans; closure and stabilization that has already been accomplished; and any other conditions affecting costs. This will yield a surety that is at least sufficient at all times to cover the costs of closure of the disposal units that are expected to be used before the next license renewal.
- e) The term of the surety mechanism shall be open ended unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety mechanism which is written for a specified period of time (e.g., five (5) years) yet which shall be automatically renewed unless the party who issues the surety notifies the Department and the beneficiary (the State) and the principal (the licensee) not less than 90 days prior to the renewal date of its intention not to renew. In such a situation the licensee must submit a replacement surety within 30 days after notification of cancellation. If the licensee fails to provide a replacement surety acceptable to the Department, the State may collect on the original surety.
- f) Proof of forfeiture shall not be necessary to collect the surety so that in the event the licensee cannot provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open ended, and shall be agreed to by all parties. Liability under the surety mechanism shall remain in effect until the closure and stabilization program has been completed and approved by the Department and the license has been transferred to the site owner.
- g) Financial surety arrangements generally acceptable to the Department include: surety bonds, cash deposits, certificates of deposit, deposits of government securities, escrow accounts, irrevocable letters or lines of credit, trust funds, and

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combinations of the above or such other types of arrangements as may be approved by the Department. However, self-insurance, or any arrangement which essentially constitutes pledging the assets of the licensee, will not satisfy the surety requirement for private sector applicants since this provides no additional assurance other than that which already exists through license requirements in accordance with Sections 300 and 310.

**Section 601.320 Financial Assurances for Institutional Controls**

- a) Prior to the issuance of the license, the applicant shall provide for Department review and approval a copy of a binding arrangement, such as a lease, between the applicant and the disposal site owner that ensures that sufficient funds will be available to cover the costs of monitoring and any required maintenance during the institutional control period. The binding arrangement will be reviewed periodically by the Department to ensure that changes in inflation, technology, and disposal facility operations are reflected in the arrangements.
- b) Subsequent changes to the binding arrangement specified in Section 601.320(a) relevant to institutional control shall be submitted to the Department for approval.

**Section 601.330 Maintenance of Records, Reports, and Transfers**

- a) Each licensee shall maintain any records and make any reports in connection with the licensed activities as are required by the conditions of the license or by regulations of the Department.
- b) Records which are required by this Part or by license conditions shall be maintained for a period specified in this Chapter or by a license condition. If a retention period is not otherwise specified, these records must be maintained and transferred to the officials specified in Section 601.330(e) as a condition of license termination unless the Department authorizes their disposition because of inaccuracies or obsolescence.
- c) Records which shall be maintained pursuant to this Part may be the original or a reproduced copy or microfilm if this reproduced copy or microfilm is capable of producing a copy that is clear and legible at the end of the required retention period.
- d) If there is a conflict between the Department's regulations in this Part, other Parts,

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and a license condition pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

- e) Notwithstanding subsections (a) through (d), copies of records of the location and the quantity of radioactive wastes contained in the disposal site must be transferred upon license termination to local, State, and Federal governmental agencies such as are designated by the Department at the time of license termination.
- f) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall record the date of disposal of the waste, the location in the disposal site, the condition of the waste packages as received, any discrepancies between materials listed on the manifest and those received, and any evidence of leaking or damaged packages or radiation or contamination levels in excess of limits specified in regulations of the U.S. Department of Transportation (49 CFR 173.441 and 173.443, revised as of November 1, 1984, exclusive of subsequent amendments or editions) and the Department (32 Ill. Adm. Code 341). The licensee shall briefly describe any repackaging operations of any of the waste packages included in the shipment, plus any other information required by the Department as a license condition.
- g) Each licensee authorized to dispose of radioactive waste received from other persons shall file a copy of its financial report or a certified financial statement annually with the Department in order to update the information base for determining financial qualifications.
- h) Annual Reports
  - 1) Each licensee authorized to dispose of waste materials received from other persons, pursuant to this Part, shall submit annual reports to the Department. Reports shall be submitted by the end of the first calendar quarter of each year for the preceding year.
  - 2) The reports shall include:
    - A) specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents during the preceding year;

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- B) the results of the environmental monitoring program;
  - C) a summary of licensee disposal unit survey and maintenance activities;
  - D) a summary, by waste class, of activities and quantities of radionuclides disposed of; and
  - E) any instances in which observed site characteristics were significantly different from those described in the application for a license.
- 3) If the quantities of radioactive materials released during the reporting period, monitoring results, or maintenance performed are different from those expected in the materials previously reviewed as part of the licensing action, the report must cover this specifically.

**Section 601.340 Tests at Land Disposal Facilities**

Each licensee shall perform, or permit the Department to perform, any tests the Department deems appropriate or necessary for the administration of the regulations in this Part, including, but not limited to, tests of:

- a) Radioactive wastes and facilities used for the receipt, storage, treatment, handling and disposal of radioactive wastes;
- b) Radiation detection and monitoring instruments; and
- c) Other equipment and devices used in connection with the receipt, possession, handling, treatment, storage, or disposal of radioactive waste.

**Section 601.350 Department Inspections of Land Disposal Facilities**

- a) Each licensee shall afford the Department at all reasonable times, the opportunity to inspect radioactive waste not yet disposed of, and the premises, equipment, operations, and facilities in which radioactive wastes are received, possessed, handled, treated, stored, or disposed.
- b) Each licensee shall make available to the Department for inspection, records kept

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by it pursuant to the regulations in this Part. Authorized representatives of the Department may make and keep copies, of any record required to be kept pursuant to this Part.

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- 1) Heading of the Part: Licensing Requirements for a Low-Level Radioactive Waste Disposal Facility
- 2) Code Citation: 32 Ill. Adm. Code 601
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
601.10	New Section
601.15	New Section
601.20	New Section
601.30	New Section
601.40	New Section
601.50	New Section
601.60	New Section
601.70	New Section
601.80	New Section
601.90	New Section
601.100	New Section
601.110	New Section
601.120	New Section
601.130	New Section
601.140	New Section
601.200	New Section
601.210	New Section
601.220	New Section
601.230	New Section
601.240	New Section
604.250	New Section
601.260	New Section
601.270	New Section
601.280	New Section
601.300	New Section
601.310	New Section
601.320	New Section
601.330	New Section
601.340	New Section
601.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 6 and 19 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20]

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- 5) A Complete Description of the Subjects and Issues Involved: This proposed rule replaces the requirements previously found in 32 Ill. Adm. Code 601 and 606. This new Part establishes the requirements for siting, designing, licensing, constructing, operating and closing a low-level radioactive waste disposal facility in Illinois.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? This Part references various state statutes and other state and federal regulations. Section 601.15 addresses Incorporations by Reference.
- 10) Are there any other proposed amendments pending on this Part? There are no proposed amendments pending on this Part; however, proposed repealers for the old Part 601 and 606 were filed in conjunction with this rulemaking.
- 11) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Public Hearing  
Tuesday, October 27, 2009  
9:00 AM to 12:00 PM  
1035 Outer Park Drive, Springfield, Illinois

Comments on this proposed rulemaking may also be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

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Louise Michels  
Staff Attorney  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704

217/785-9876 (voice)  
217/782-6133 (TDD)

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities or not for profit corporations affected: Given the magnitude of the effort to develop a low-level radioactive waste disposal facility, it is unlikely that a small business, small municipality or a not for profit corporation would undertake the activities regulated by this Part. However, the public health and safety concerns are the same regardless of who develops a disposal facility and therefore the requirements are the same.
- B) Reporting, bookkeeping or other procedures required for compliance: There are numerous reporting, from environmental data to waste shipment receipts required for compliance. Reporting requirements and procedures are specified for the license application and will also be incorporated into the radioactive materials license issued through these regulations.
- C) Types of professional skills necessary for compliance: The firms regulated under this Part will require skills such as, but not limited to, geology, hydrology, geotechnical engineering, civil engineering, structural engineering, electrical engineering, mechanical engineering, geochemistry, radiochemistry, health physics, finance and project management.

14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY  
SUBCHAPTER b: RADIATION PROTECTION

PART 601

LICENSING REQUIREMENTS FOR A LOW-LEVEL  
RADIOACTIVE WASTE DISPOSAL FACILITY

SUBPART A: GENERAL PROVISIONS

Section:

- 601.10 Purpose and Scope
- 601.15 Incorporations by Reference
- 601.20 Definitions
- 601.30 Performance Objectives
- 601.40 License Required
- 601.50 Content of an Application
- 601.60 Application Information – General
- 601.70 Application Information – Land Ownership
- 601.80 Application Information – Financial
- 601.90 Application Information – Closure, Post-Closure and Institutional Control Plans
- 601.100 Application Information – Technical
- 601.110 Issuance of a License
- 601.120 Conditions of Licenses
- 601.130 Application for Renewal
- 601.140 Recordkeeping Requirements

SUBPART B: DESIGN, CONSTRUCTION AND OPERATION

Section:

- 601.200 Disposal Site Suitability Requirements
- 601.210 Disposal Facility Design and Construction
- 601.220 Disposal Site Design and Construction
- 601.230 Disposal Unit Design and Construction
- 601.240 Environmental Monitoring
- 601.250 Technical Requirements – Facility Operation
- 601.260 Contingency Plan and Emergency Procedures
- 601.270 Reporting Requirements
- 601.280 Tests at Waste Disposal Facilities

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## SUBPART C: FACILITY CLOSURE AND LICENSE TERMINATION

## Section:

601.300	Closure Application
601.310	Closure – Technical Requirements
601.320	Emergency Closure
601.330	Post-Closure Observation and Maintenance
601.340	Termination of License and Site Transfer

## 601. APPENDIX A Diagram of Terms and General Locations

**AUTHORITY:** Implementing and authorized by the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20].

**SOURCE:** Adopted at 10 Ill. Reg. 17465, effective September 25, 1986; amended at 18 Ill. Reg. 16579, effective November 1, 1994; amended at 20 Ill. Reg. 6904, effective May 1, 1996; old Part repealed at 34 Ill. Reg. \_\_\_\_\_, and new Part adopted at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 601.10 Purpose and Scope**

- a) This Part establishes procedures, criteria, performance objectives, and terms and conditions upon which the Illinois Emergency Management Agency – Division of Nuclear Safety (Agency) issues licenses for a low-level radioactive waste disposal facility. Disposal of waste by an individual licensee is set forth in 32 Ill. Adm. Code 340. The requirements of this Part are in addition to, and not in substitution for, the requirements of 32 Ill. Adm. Code Chapter II, Subchapters b and d.
- b) This Part does not apply to disposal of licensed material as provided for in 32 Ill. Adm. Code 340.
- c) This Part is intended to *reflect the best available management technologies which are economically reasonable, technologically feasible, and environmentally sound* for the disposal of low-level radioactive waste, as required by Section 6 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/6].

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- d) The use of shallow land burial of low-level radioactive waste at a disposal facility is prohibited.

**Section 601.15 Incorporations by Reference**

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified. All references to 10 CFR are incorporated as of July 1, 2007, unless otherwise specified in this Part, and do not include any later amendments or editions. Copies of rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Illinois Emergency Management Agency – Division of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

**Section 601.20 Definitions**

As used in this Part, the following definitions apply:

"Accepted engineering principles and practices" means those engineering principles and practices that are used by engineers when fulfilling their requirements and duties consistent with the specific requirements of this Part and as certified by a Professional Engineer licensed under the Professional Engineering Practice Act [225 ILCS 325].

"Active maintenance" means activity needed during the institutional control period to provide reasonable assurance that the performance objectives in Section 601.30 are met. Active maintenance includes ongoing activities such as the pumping and treatment of water from a disposal unit and one-time measures such as replacement of a disposal unit cover. Active maintenance does not include minor custodial care such as repair of fences, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

"Buffer zone" means a portion of the disposal site that is controlled by the licensee and that lies under the disposal units and between the disposal units and the boundary of the site.

"Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, glucinic acid and polycarboxylic acids.

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"Commence construction" means any clearing of land, excavation or other substantial action that would adversely affect the environment of a disposal facility. The term does not mean disposal site exploration, necessary roads for disposal site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the disposal site or the protection of the environment.

"Disposal" means *the isolation of waste from the biosphere in a permanent facility designed for that purpose* [420 ILCS 20/3(f)].

"Disposal facility" or "facility" means a parcel of land, together with buildings, structures, equipment and improvements on or appurtenant to the land, that is used or is being developed for the disposal of low-level radioactive waste.

"Disposal site" means that portion of a disposal facility that is used for disposal of waste. It consists of disposal units and a buffer zone.

"Disposal unit" means a discrete portion of the disposal site into which waste is placed for disposal.

"Engineered barrier" means a man-made structure or device that is intended to improve the disposal facility's ability to meet the performance objectives in this Part.

"Inadvertent intruder" means a person who might occupy the disposal site after the institutional control period and engage in normal activities, such as agriculture, dwelling construction, or other pursuits in which an individual might be unknowingly exposed to radiation from the waste.

"Institutional control period" means the period of time after the termination of the license during which the State implements an institutional control program based upon the institutional control plan to protect public health and safety and the environment.

"Intruder barrier" means a sufficient depth of cover over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this Part, or engineered structures that provide equivalent protection to the inadvertent intruder.

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"Low-level radioactive waste" or "waste" means *radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or byproduct material as defined in Section 11e(2) of the federal Atomic Energy Act of 1954 (42 USC 2014) [420 ILCS 20/3(k)].*

"Monitoring" means observing and making measurements to provide data to evaluate the performance and characteristics of the disposal facility.

"Post-closure care" means *the continued monitoring of the regional disposal facility after closure for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements, and includes undertaking any remedial actions necessary to protect public health and the environment from radioactive releases from the facility [420 ILCS 20/3(n)].*

"Release" means *any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of low-level radioactive waste [420 ILCS 20/3(p)].*

"Remedial action" means *those actions taken in the event of a release or threatened release of low-level radioactive waste into the environment, to prevent or minimize the release of the waste so that it does not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released low-level radioactive wastes, recycling or reuse, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, provision of alternative water supplies and any monitoring reasonably required to assure that these actions protect human health and the environment. [420 ILCS 20/3(q)]*

"Shallow land burial" means *a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface. However, this definition shall not include an enclosed, engineered, structurally re-enforced and solidified bunker that extends below the earth's surface. [420 ILCS 20/3(r)]*

"Site closure and stabilization" means those actions that are taken upon completion of operations that prepare the disposal site for institutional control and

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that assure that the disposal site will remain stable and will not need ongoing active maintenance.

**Section 601.30 Performance Objectives**

Disposal facilities shall be sited, designed, constructed, operated, closed and controlled after closure to provide reasonable assurance that:

- a) Concentrations of radioactive material that may be released to the general environment in groundwater, surface water, air, soil, plants or animals do not result in an annual dose exceeding an equivalent of 0.25 mSv (25 mrem) to the whole body, 0.75 mSv (75 mrem) to the thyroid, and 0.25 mSv (25 mrem) to any other organ of any member of the public. The licensee shall assume initiatives necessary to maintain releases of radioactivity in effluents to the general environment as low as is reasonably achievable.
- b) Operations at the disposal facility are conducted in compliance with the standards for radiation protection set out in 32 Ill. Adm. Code 340, except for releases of radioactivity in effluents from the disposal facility, which shall be governed by subsection (a). The licensee shall assume initiatives necessary to maintain radiation exposures as low as is reasonably achievable.
- c) The disposal facility protects any individual inadvertently intruding into the disposal site and occupying the site at any time after the institutional control period.
- d) Following closure, the disposal site achieves long-term stability and eliminates, to the extent practicable, the need for active maintenance.

**Section 601.40 License Required**

- a) Each applicant shall file an application with the Agency pursuant to 32 Ill. Adm. Code 330.240 and obtain a license as provided in this Part before commencing construction of a disposal facility.
- b) Prior to submitting a license application, the applicant shall have conducted a monitoring program to obtain basic environmental data on the site characteristics. The applicant shall obtain information about the ecology, meteorology, climate, hydrology, geology, geochemistry and seismology of the disposal site. For those

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characteristics that are subject to seasonal variation, data must cover at least a 12 month period. The monitoring program shall be conducted under a quality assurance program.

- c) No person may receive, possess and dispose of waste at a disposal facility unless authorized by a license issued by the Agency pursuant to this Part and 32 Ill. Adm. Code 330.

**Section 601.50 Content of an Application**

An application for a license to commence construction of, or to operate, a disposal facility shall be filed in accordance with 32 Ill. Adm. Code 330.240. Each application shall meet the general requirements set forth in 32 Ill. Adm. Code 330.250 and the additional general, technical, institutional and financial requirements specified in this Part. General information to be included in an application is described in Subpart A of this Part. Information specific to design, construction and operation is described in Subpart B. Information regarding site closure and license termination is described in Subpart C.

**Section 601.60 Application Information – General**

The license application shall include, but not be limited to, the following information:

- a) Identity of the applicant, including:
  - 1) If the applicant is a partnership, the name and address of each partner and the principal location where the partnership does business;
  - 2) If the applicant is a corporation or an unincorporated association:
    - A) the state where it is incorporated or organized and the principal location where it does business; and
    - B) the names and addresses of its directors and principal officers;
  - 3) If the applicant is a limited liability company:
    - A) the state where it is organized and the principal location where it does business; and

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- B) the names and addresses of its members and managers;
- b) The organizational structure of the applicant, both offsite and onsite, including a description of lines of authority and assignments of responsibilities, whether in the form of administrative directives, contract provisions, or otherwise;
- c) A description of the applicant's quality assurance program;
- d) The technical qualifications and experience of the applicant;
- e) The technical qualifications, including training and experience, of personnel;
- f) A description of the applicant's personnel training program;
- g) A description of:
  - 1) The location of the proposed disposal site;
  - 2) The general character of the proposed handling, storage, treatment and disposal activities;
  - 3) The wastes to be received, possessed and disposed of, including, but not limited to, a description of the waste types, classifications and physical forms; the types, volumes and quantities of containers; an identification and estimate of the radionuclides contained in the various waste types, including concentration and total activity; and identification of stabilization media and chelating agents;
  - 4) Plans for use of the disposal facility for purposes other than disposal of radioactive wastes; and
  - 5) The proposed facilities and equipment;
- h) Proposed schedules for construction, receipt of waste, and first emplacement of waste at the proposed disposal facility.

**Section 601.70 Application Information – Land Ownership**

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- a) Identity of Owner. Disposal of radioactive waste in a facility licensed under this Part may be permitted only on land owned in fee simple absolute by the State.
- b) Where the proposed disposal site is on land not owned by the State, the applicant shall submit evidence that arrangements have been made for assumption of ownership in fee simple absolute by the State before the Agency issues a license.

**Section 601.80 Application Information – Financial**

The applicant shall demonstrate that it either possesses the necessary funds, or has reasonable assurance of obtaining the necessary funds, to cover the estimated costs of conducting all activities over the planned operating life of the project, including costs of construction, operation, closure, post-closure and institutional control.

- a) Operation. The applicant shall *post a performance bond with the Department or show evidence of liability insurance or other means of establishing financial responsibility in an amount sufficient to adequately provide for any necessary remedial actions or liabilities that might be incurred by the operation of the disposal facility during the operating period and during a reasonable period of post-closure care* [420 ILCS 20/6(b)].

AGENCY NOTE: This may include costs associated with failure of the operator or failure to fulfill terms of the contract and costs associated with transferring operation and ownership. The italicized text is a direct quotation from the Illinois Low-Level Radioactive Waste Management Act, which has not been updated to reflect Illinois Executive Order 2003-12, effective July 1, 2003, which transferred the responsibilities of the Illinois Department of Nuclear Safety to the Agency. In this case, the Department means the Illinois Emergency Management Agency.

- b) Closure and Post-Closure.
  - 1) In addition to complying with the requirements of 32 Ill. Adm. Code 326, the applicant shall provide assurances that sufficient funds will be available to carry out disposal facility closure and post-closure. These assurances shall be based on Agency-approved cost estimates reflecting the Agency-approved plan for disposal facility closure and post-closure. The applicant's cost estimates must take into account total costs that would be incurred if an independent contractor were hired to perform the closure

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and post-closure work. The assurances shall establish that there will be sufficient funds for:

- A) Decontamination or dismantlement of disposal facility structures; and
  - B) Closure and post-closure of the disposal facility so that, following termination of the license and transfer of custody of the disposal site to the State, the need for active maintenance is eliminated to the extent possible.
- 2) Liability under the financial assurance mechanism shall remain in effect until the license has been terminated.
- c) Institutional Control Period Funding.
- 1) Prior to the issuance of the license, the applicant shall provide for Agency approval a copy of a binding arrangement, such as a lease or contract, between the applicant and the State that ensures that sufficient funds will be collected and available to cover the costs of monitoring and projected maintenance during the institutional control period.
  - 2) The binding arrangement will be reviewed periodically by the Agency to ensure that changes in inflation, technology and disposal facility operations are reflected in the arrangements. Subsequent changes to the binding arrangement shall be submitted to the Agency for approval.

**Section 601.90 Application Information – Closure, Post-Closure and Institutional Control Plans**

- a) Closure Plan. The application for a facility license shall contain a closure plan, which shall be consistent with the performance objectives of this Part, and shall include, but need not be limited to, the following:
- 1) A procedure for disposal of all waste and contaminated equipment remaining at the facility at the time of closure, removal of structures and equipment, and installation of permanent monuments or markers warning against intrusion;

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- 2) An estimate of the funds needed to close the facility and provisions for assuring the availability of those funds;
  - 3) A description of how the facility closure will satisfy the performance objectives of this Part;
  - 4) A description of the permissible uses of the facility and buffer zone following closure; and
  - 5) A description of the monitoring systems to be implemented during the closure, post-closure and institutional control periods.
- b) Post-Closure Plan. The application for a facility license must contain a post-closure plan under which the licensee will observe, monitor and carry out necessary maintenance and repairs at the disposal facility for a period of 10 years after facility closure. The plan shall be consistent with the performance objectives of this Part and shall include, but need not be limited to:
- 1) A procedure for evaluating the performance of both engineered and natural barriers to radionuclide release or migration at the disposal site;
  - 2) A procedure for monitoring the air, soil, surface water and groundwater at the disposal site;
  - 3) A procedure for confirming that the disposal site will meet the long term performance objectives and requirements of this Part;
  - 4) A procedure for identifying potential failure to meet the performance objectives or requirements of this Part;
  - 5) A procedure for correcting any condition that would result in failure to meet the performance objectives of this Part; and
  - 6) An estimate of the funds needed to implement the plan and provisions for assuring the availability of those funds.
- c) Institutional Control Plan. The application must contain an institutional control plan for the long term care, maintenance and monitoring of the disposal site. The plan shall describe the activities to be taken by the site owner following the 10

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year post-closure period, as described in subsection (b), and after transfer of title and custody and termination of the facility license. The plan shall be consistent with the performance objectives of this Part and shall include, but need not be limited to, the following:

- 1) A procedure for monitoring the air, soil, surface and groundwater at the disposal site; and
- 2) An estimate of the costs necessary to carry out the institutional control plan for a period of 300 years and provisions for assuring the availability of those funds.

**Section 601.100 Application Information – Technical**

The license application shall include, but not be limited to, the following technical information:

- a) A description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities. The description shall include geologic, geotechnical, hydrologic, meteorologic, climatologic and biotic features of the disposal site and vicinity.
- b) A description of the pre-operational monitoring program and the associated quality assurance plan, and results of the pre-operational monitoring program specified in Section 601.40(b).
- c) An environmental report required by 32 Ill. Adm. Code 330.250(b).
- d) A description of the design basis natural events or phenomena and their relationship to the principal design criteria.
- e) A description of the principal design criteria and their relationship to the performance objectives described in Section 601.30.
- f) A description of the design features of the disposal facility and the disposal units. The description shall include design features related to infiltration of water; integrity of covers for disposal units; structural stability of filling material, wastes and covers; contact of wastes with standing water; disposal site drainage; disposal site closure and stabilization; elimination, to the extent possible, of long-term disposal site maintenance; inadvertent intrusion; occupational exposures; disposal

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site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures.

- g) Analyses of pathways evaluated in demonstrating protection of the general population from releases of radioactivity shall include air, soil, groundwater, surface water, plant uptake and exhumation by burrowing animals. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses must clearly demonstrate that there is reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in Section 601.30(a).
- h) A description of the environmental monitoring program required by Section 601.240 to be followed during construction, operation, closure and post-closure that includes, but is not limited to, the frequency, type and method of analysis to provide data to evaluate potential health and environmental impacts, and the plan for taking corrective measures if migration of radionuclides is indicated.
- i) A description of codes and standards that the applicant has applied to the design and that will apply to construction of the disposal facilities. The standards shall meet local, State and national building code standards.
- j) A description of the construction and general operation of the disposal facility. The description shall include, as a minimum, the methods of construction of disposal units, waste emplacement, the procedures for and areas of waste segregation, types of intruder barriers, onsite traffic and drainage systems, survey control program, methods and areas of waste storage, and methods to control surface water and groundwater access to the wastes. The description shall also include a description of the methods to be employed in the handling and disposal of wastes containing chelating agents or other nonradiological substances that might affect meeting the performance objectives of this Part.
- k) A description of the quality assurance program applied during the determination of natural disposal site characteristics and during the design, construction and operation of the disposal facility.
- l) Analyses of the long-term stability of the disposal site and the need for active maintenance after closure shall be based upon analyses of active natural processes such as erosion, seismic activity, mass wasting, slope

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failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses must provide reasonable assurance that there will not be a need for active maintenance of the disposal site following closure.

- m) An identification of the known natural resources at the disposal site whose exploitation could result in inadvertent intrusion into the low-level radioactive wastes.
- n) A description of the radiation safety program for control and monitoring of radioactive effluents to ensure compliance with this Part and for occupational radiation exposure to ensure compliance with the requirements of 32 Ill. Adm. Code 340 and to control contamination. Both routine operations and accidents shall be addressed. The program description shall include procedures, instrumentation, facilities and equipment.
- o) Analyses of the protection of individuals during operations, including assessments of expected exposures due to routine operations and potential accidents during handling, storage, treatment and disposal of waste. The analyses must provide reasonable assurance that exposures will be controlled to meet the requirements of 32 Ill. Adm. Code 340.
- p) A description of the administrative and operating procedures that the applicant will apply to control activities at the facility.
- q) A description of the contingency plan required by Section 601.260.
- r) A description of the electronic recordkeeping system required in Section 601.140.

**Section 601.110 Issuance of a License**

The Agency shall review license applications filed in accordance with Section 601.50. *If the Department determines that the license should be issued, the Department shall publish in the State newspaper a notice of intent to issue the license. Objections to issuance of the license may be filed within 90 days after publication of the notice. Upon receipt of objections, the Director shall appoint a hearing officer who shall conduct an adjudicatory hearing on the objections. The burden of proof at the hearing shall be on the person filing the objections. Upon completion of the hearing, the hearing officer shall recommend to the Director whether the license should be*

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*issued. The decision of the Director to issue or deny the license may be appealed* under Section 18 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/10.3(c)].

AGENCY NOTE: The italicized text is a direct quotation from the Illinois Low-Level Radioactive Waste Management Act, which has not been updated to reflect Illinois Executive Order 2003-12, effective July 1, 2003. In this case, the Department means the Illinois Emergency Management Agency.

**Section 601.120 Conditions of Licenses**

- a) A license issued under this Part, or any right under that license, may not be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Agency finds, after securing full information, that the transfer is in accordance with the provisions of the Radiation Protection Act of 1990 [420 ILCS 40], the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20] and this Part and gives its consent in writing in the form of a license amendment.
- b) The licensee shall not receive waste until the licensee has received written notification from the Agency that the Agency has inspected the disposal facility and has found it to be in conformance with the description, design and construction described in the application for a license.
- c) Failure to renew the license shall not relieve the licensee of responsibility for carrying out site closure and post-closure, and obtaining a license amendment terminating the license.
- d) The terms and conditions of the license are subject to amendment, revision or modification, by reason of amendments to, or by reason of rules, regulations and orders issued in accordance with, the terms of the Radiation Protection Act of 1990 and the Illinois Low-Level Radioactive Waste Management Act.
- e) The Agency shall, upon request or on its own initiative, authorize provisions other than those set forth in this Part for the classification and characteristics of waste, disposal of waste, or design and operation of a disposal facility on a specific basis only if the Agency establishes that performance objectives of this Part will be met.

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**Section 601.130 Application for Renewal**

- a) An application for renewal must be filed at least 90 days prior to license expiration. Applications for renewal of a license must be filed in accordance with 32 Ill. Adm. Code 330.240 and this Part.
- b) In any case in which a licensee has filed an application in proper form for renewal of a license, the license does not expire until the Agency has taken final action on the application for renewal.

**Section 601.140 Recordkeeping Requirements**

- a) The licensee shall maintain any records and make any reports in connection with the licensed activities as are required by the conditions of the license, this Part or 32 Ill. Adm. Code 340.
- b) Records required by this Part or by license conditions shall be maintained until the termination of the license or as specified by a license condition. If a retention period is not otherwise specified, these records shall be maintained and transferred to the officials specified in subsection (e) as a condition of license termination, unless the Agency authorizes their disposition because of inaccuracies or obsolescence.
- c) Records that must be maintained pursuant to this Part may be the original or a reproduced copy or microfilm if the reproduced copy or microfilm is capable of producing a copy that is clear and legible at the end of the required retention period. Records may also be stored in electronic media with the capability for reproducing legible, accurate and complete records during the required retention period. Records such as letters, drawings or specifications shall include all pertinent information such as stamps, initials and signatures. The licensee shall maintain safeguards against tampering with and loss of records.

AGENCY NOTE: Safeguards may include such actions as storing a duplicate copy in an offsite location and maintaining suitable software for viewing computer images.

- d) If there is a conflict between this Part and other Agency Parts or a license condition pertaining to the retention period for the same type of record, the longest retention period specified takes precedence.

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- e) Following receipt and acceptance of a shipment of radioactive waste, the licensee shall:
  - 1) Record the date that the shipment is received at the low-level radioactive waste disposal facility, the date of disposal of the waste, a traceable shipment manifest number, a description of any engineered barrier or structural overpack provided for disposal of the waste, the location of disposal at the disposal site, the containment integrity of the waste disposal containers received, any discrepancies between materials listed on the manifest and those received, the volume of any pallets, bracing or other shipping or onsite generated materials that are contaminated and are disposed of as contaminated or suspect materials, and any evidence of leaking or damaged disposal containers or radiation or contamination levels in excess of limits specified in regulations of the U.S. Department of Transportation and the Agency (see 32 Ill. Adm. Code 341);
  - 2) Describe any repackaging operations of any of the disposal containers included in the shipment, plus any other information required by the Agency as a license condition.
- f) The licensee shall store, or have stored, manifest and other information pertaining to receipt and disposal of radioactive waste in an electronic recordkeeping system that includes:
  - 1) Information required under 32 Ill. Adm. Code 340.1060, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and
  - 2) Information required under subsection (e).
- g) Notwithstanding subsections (a) through (f), copies of records of the location and the quantity of radioactive wastes contained in the disposal site shall be transferred to the Agency, or other agency designated by the Agency, at the time of license termination.

## SUBPART B: DESIGN, CONSTRUCTION AND OPERATION

**Section 601.200 Disposal Site Suitability Requirements**

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The following minimum characteristics shall be used in determining a site acceptable for disposal of low-level radioactive waste:

- a) The primary emphasis in disposal site suitability is isolation of waste and disposal site features that ensure that the long-term performance objectives are met.
- b) The disposal site shall be capable of being characterized, modeled, analyzed and monitored.
- c) Within the region where the facility is to be located, a disposal site shall be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of this Part.
- d) Areas shall be avoided having known natural resources that, if exploited, would result in failure to meet the performance objectives of this Part.
- e) The disposal site shall be generally well drained and free of areas of standing water or flooding or frequent ponding. Waste disposal shall not take place in a regulatory flood plain, as provided in the rules of the Illinois Department of Natural Resources (see 17 Ill. Adm. Code 3706).
- f) Upstream drainage areas shall be minimized to decrease the amount of runoff that could erode or inundate waste disposal units.
- g) The disposal site shall provide sufficient depth to the water table that groundwater intrusion, perennial or otherwise, into the waste will not occur.
- h) Areas shall be avoided where tectonic processes such as faulting, folding, seismic activity or vulcanism occur with such frequency and to such an extent that they would affect the ability of the disposal site to meet the performance objectives of this Part or would preclude defensible modeling and prediction of long-term impacts.
- i) Areas shall be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding or weathering occur with such frequency and to such an extent that they would affect the ability of the disposal site to meet the

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performance objectives of this Part, or would preclude defensible modeling and prediction of long-term impacts.

- j) The disposal site must not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of this Part or significantly mask the environmental monitoring program.

**Section 601.210 Disposal Facility Design and Construction**

The disposal facility shall be designed and constructed, based on accepted engineering principles and practices, to further the following:

- a) The design and construction of the disposal facility shall utilize the best available technology that is economically reasonable, technologically feasible and environmentally sound for the receipt, handling and disposal of waste.
- b) The design of the disposal facility shall be compatible with the expected waste characteristics, methods of operation and proposed methods of handling, closure and stabilization and shall demonstrate that the requirements of this Part will be met.
- c) Buildings shall be designed, constructed and maintained in accordance with all applicable codes and standards. In the event that two or more building codes or standards conflict or apply, the most stringent shall be met.
- d) The disposal facility shall be designed to minimize, to the extent practicable, the contact of water with waste following receipt and prior to disposal.

**Section 601.220 Disposal Site Design and Construction**

The disposal site shall be designed and constructed, based on accepted engineering principles and practices, to further the following:

- a) Site design features shall be directed toward long-term isolation and avoidance of the need for continuing active maintenance after site closure.
- b) Site design and operation shall be compatible with the closure and post-closure plans and lead to disposal site closure that provides reasonable assurance that the performance objectives will be met.

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- c) The disposal site shall be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives will be met.
- d) Surface features shall direct surface water drainage away from disposal units at velocities and gradients that will not result in erosion that will require active maintenance in the future.
- e) The site design shall allow closure in a manner that isolates the wastes and waste constituents and that requires only minor custodial care to assure long-term performance.
- f) The site shall be designed and constructed to allow remedial action, if necessary. Achievement of this objective shall not be accomplished by compromising, or in any way lessening, the ability of the site to satisfy the performance objectives and requirements of this Part.
- g) The site shall be designed to accept waste for disposal for a period of at least 50 years. The site shall be designed to accommodate waste generated during the decommissioning of nuclear power stations in Illinois.

**Section 601.230 Disposal Unit Design and Construction**

- a) Disposal units shall be designed and constructed, based on accepted engineering principles and practices, to:
  - 1) Minimize, to the extent practicable, the contact of standing water with waste during disposal and the contact of percolating or standing water with wastes after disposal.
  - 2) Be compatible with the expected waste characteristics, methods of operation, and proposed methods of closure and stabilization.
  - 3) Withstand all natural phenomena, such as precipitation, earthquakes and tornadoes, that are expected to occur for 500 years.
  - 4) Incorporate multiple engineered safety features, such as, but not limited to, placing a cover over disposal units, using backfill that adds structural

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strength and reinforcing units with manufactured materials that provide structural support, prevent the release of waste and waste constituents and prevent inadvertent intrusion.

- 5) Incorporate design elements that will allow operation of the units in such a manner that the amount of waste on site that is not yet permanently disposed of, as well as the time that waste is held on site prior to disposal, will be minimized.
  - 6) Accommodate waste that cannot be packaged in standard containers, e.g., reactor components, contaminated steel.
  - 7) Maintain their structural integrity regardless of the physical form of the waste.
  - 8) Allow characterization, modeling, analysis and evaluation of the unit's ability to contain waste.
- b) Disposal unit covers shall be designed to minimize water infiltration to the extent practicable, to direct percolating or surface water away from the disposed waste, and to resist degradation by surface geologic processes and biotic activity.
  - c) Disposal unit design shall not incorporate the use of shallow land burial or underground injection wells and shall provide for the use of above-ground units or other designs to provide greater and safer confinement of low-level radioactive waste.
  - d) Disposal units made of manufactured materials shall be designed and constructed, using accepted engineering principles and practices, to ensure that the tensile stress in the manufactured materials never exceeds the level that will cause the materials to fail.
  - e) Disposal units shall be constructed of materials that will not interact with each other, any surrounding earth, backfill, cover material or base grade material in such a manner as to compromise the ability of the materials to perform their intended function.
  - f) If intruder barriers are required by Section 601.250(b), disposal units shall be designed and constructed with intruder barriers designed to last at least 500 years.

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**Section 601.240 Environmental Monitoring**

- a) During construction, operation, closure and post-closure, the licensee shall maintain an environmental monitoring program. Measurements and observations shall be made and recorded to provide data to evaluate the potential health and environmental impacts during the construction and operation of the facility and to enable the evaluation of long-term effects and the need for mitigative measures. The monitoring system shall be capable of providing early warning of releases of radionuclides from the disposal unit before they leave the site boundary.
- b) The licensee shall have plans for taking corrective measures if the environmental monitoring program detects migration of radionuclides, which would indicate that the performance objectives may not be met.

**Section 601.250 Technical Requirements – Facility Operation**

- a) Wastes designated as Class A pursuant to 32 Ill. Adm. Code 340.1052(b) shall be segregated from other wastes by placement in disposal units that are sufficiently separated from disposal units for the other waste classes so that any interaction between Class A wastes and other wastes will not result in failure to meet the performance objectives of this Part. This segregation is not necessary for Class A wastes if they meet the stability requirements in 32 Ill. Adm. Code 340.1055(b).
- b) Wastes designated as Class C pursuant to 32 Ill. Adm. Code 340.1052(b) shall be disposed of so that the waste is protected by a barrier of a minimum of 5 meters between the top of the Class C waste and the top surface of the cover, or with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years.
- c) Except as allowed by the Agency in Section 601.120(e), only waste classified as Class A, B or C shall be acceptable for disposal.
- d) Wastes shall be emplaced in a manner that maintains the package integrity during emplacement and minimizes the void spaces between packages to ensure structural stability.
- e) The boundaries and locations of each disposal unit shall be accurately located and mapped by means of a land survey. Disposal units shall be marked in such a way

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that the boundaries of each unit can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey (USGS) or National Geodetic Survey (NGS) survey control stations, shall be established on the site to facilitate surveys. The USGS or NGS control stations shall provide horizontal and vertical controls as checked against USGS or NGS record files.

- f) A buffer zone of land shall be maintained between disposed waste and the disposal site boundary. The buffer zone shall be of adequate dimensions to carry out environmental monitoring activities and take mitigative measures if needed.
- g) Closure and stabilization measures set forth in the approved site closure plan shall be carried out as each disposal unit is filled and enclosed.
- h) Active waste disposal operations shall not have an adverse effect on completed closure and stabilization measures.
- i) Only wastes containing or contaminated with radioactive materials shall be disposed of at the disposal site.

**Section 601.260 Contingency Plan and Emergency Procedures**

- a) The licensee shall develop and implement a contingency plan for responding to risks to human health and the environment from fires, explosions or any unplanned release, sudden or gradual, of waste or waste constituents to air, soil, surface water and groundwater. The plan shall address response actions to be taken in the event there is a temporary inability to dispose of wastes at the facility (e.g., because the facility has been closed temporarily) or the facility is permanently closed.
- b) Notwithstanding the requirements of 32 Ill. Adm. Code 330.250(e)(2), the licensee shall meet all contingency plan requirements specified in 32 Ill. Adm. Code 330.290, in addition to other additional requirements specified in this Section.
- c) The provisions of the contingency plan shall be carried out immediately whenever there is a fire, explosion, release of waste or waste constituents to the environment, or an unscheduled closure of the facility, either temporary or permanent.

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- d) The plan shall contain provisions for conducting on-site drills prior to initial receipt of waste for disposal.

**Section 601.270 Reporting Requirements**

- a) **Unmanifested Waste Report.** The licensee shall notify the Agency immediately of any waste received at the facility that is unaccompanied by a proper manifest.
- b) **Accident Report.** The licensee shall provide a written report to the Agency within 7 days after any event resulting in either a release of radioactive material from a disposal unit or a radiation dose to any person outside the facility in excess of the limits specified in Section 601.30 for releases and 32 Ill. Adm. Code 340.310 for exposures. The report shall include:
  - 1) A description of the events causing the releases or exposures;
  - 2) A description of the release, resulting exposures and impacts;
  - 3) A description of the remedial action taken; and
  - 4) A description of actions that will be taken to prevent such events from occurring in the future.
- c) **Annual Report.** By the end of the first calendar quarter of each year, the licensee shall submit an annual report to the Agency summarizing facility operations for the preceding year. A copy of the report shall be available for public inspection. This report shall contain, but need not be limited to, the following:
  - 1) A summary of the sources, volumes, Curie content and types of low-level radioactive waste received at the facility in the previous year and an inventory of the total volume and Curie content of wastes disposed of at the facility since it commenced operation;
  - 2) Specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents during the preceding year;

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- 3) A description of any incidents or accidents in which radioactive materials were released, or occupational exposures in excess of the limits set by 32 Ill. Adm. Code 340 occurred;
- 4) A description of the environmental and personnel monitoring programs and the results of those programs;
- 5) The results of the testing and evaluation of disposal unit design and construction, and recommendations;
- 6) A description of the status and adequacy of plans for closure and post-closure of the facility, specifying and considering information learned as a result of the testing and monitoring program and other facility operations during the previous year; and
- 7) An accounting of the fees collected by the facility operator for deposit by the Agency into the Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund established by 420 ILCS 20/14. The accounting shall be performed using generally accepted accounting principles.

**Section 601.280 Tests at Waste Disposal Facilities**

The licensee shall perform, or permit the Agency to perform, any tests the Agency deems appropriate or necessary for the administration of the requirements in this Part, including, but not limited to, tests of:

- a) Wastes and facilities used for the receipt, storage, treatment, handling and disposal of radioactive wastes;
- b) Radiation detection and monitoring instruments; and
- c) Other equipment and devices used in connection with the receipt, possession, handling, treatment, storage or disposal of waste.

## SUBPART C: FACILITY CLOSURE AND LICENSE TERMINATION

**Section 601.300 Closure Application**

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- a) An application to amend the license for closure shall include a final revision and specific details of the disposal facility final closure plan that had been included as part of the license application submitted under Section 601.90. The application shall include, but not be limited to, the following:
- 1) Any additional geologic, hydrologic or other data pertinent to the long-term containment of emplaced wastes obtained during the operational period.
  - 2) The results of tests, experiments or any other analyses relating to filling material or excavated areas, closure and sealing, waste migration and interaction with emplacement media, or any other tests, experiments or analysis pertinent to the long-term containment of emplaced waste within the disposal site.
  - 3) Any proposed revision of plans for:
    - A) Decontamination and/or dismantlement of buildings, structures, equipments and improvements;
    - B) Backfilling of excavated areas; or
    - C) Site closure and stabilization.
  - 4) Any new information regarding the environmental impact of closure activities and long-term performance of the disposal site.
- b) Upon review and consideration of an application to amend the license for closure, the Agency shall issue an amendment authorizing closure if the licensee provides reasonable assurance that the long-term performance objectives of this Part will be met.

**Section 601.310 Closure – Technical Requirements**

- a) The licensee shall close the facility at the end of its operating lifetime.
- b) Not more than 2 years nor less than one year prior to anticipated facility closure, the licensee shall submit an application to the Agency in accordance with Section 601.300(a) for a license amendment to close the facility.

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- c) Upon granting of the license amendment, the licensee shall close the facility in accordance with the closure plan and the license conditions imposed.
- d) Within 6 months after completing facility closure, the licensee shall certify in writing to the Agency that the facility has been closed in accordance with the requirements of this Part.

**Section 601.320 Emergency Closure**

- a) Upon finding that immediate closure of the facility is necessary to avoid an imminent threat to the public health or safety or to the environment, the Director of the Agency shall issue an emergency closure order to the licensee. An emergency closure order may be issued by the Director in the event of either:
  - 1) A finding of non-compliance with any applicable regulation of the Agency or provision of the license, if the non-compliance is determined by the Director to pose a risk of a release of radioactive material beyond the site boundary in excess of any applicable limit imposed by 32 Ill. Adm. Code 340; or
  - 2) A finding that continued operation of the facility represents a significant and immediate threat to the public health or safety, as evidenced by a violation of any provisions of the Radiation Protection Act of 1990, the Low-Level Radioactive Waste Management Act or any rule, regulation or order promulgated under these Acts, and that requires immediate action to protect the public welfare.
- b) Upon receipt of a written order requiring immediate closure, the licensee shall immediately take the following actions:
  - 1) Implement the contingency plan required by Section 601.260;
  - 2) Notify all persons holding a site use permit or similar evidence of permission to use the facility; and
  - 3) Notify the Central Midwest Interstate Low-Level Radioactive Waste Commission.

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**Section 601.330 Post-Closure Observation and Maintenance**

The licensee shall observe, monitor, carry out maintenance and repairs, and maintain security at the disposal site for a minimum period of 10 years following site closure and until the license is terminated by the Agency. The licensee shall maintain a monitoring system based on past monitoring performance and the closure and stabilization of the disposal site. The monitoring system must be capable of providing early warning of releases of radionuclides from disposal units before they leave the site boundary. A longer time period for post-closure observation and maintenance may be required as part of the site closure plan, based upon site-specific conditions.

**Section 601.340 Termination of License and Site Transfer**

- a) Following the period of post-closure care specified in Section 601.330, the licensee shall submit a report to the Agency regarding the projected long term performance of the disposal site and shall apply for an amendment to terminate the license and transfer the title and custody of the facility to the State.
- b) This application will be reviewed in accordance with the provisions of this Part and 32 Ill. Adm. Code 330.
- c) A license will be terminated only if the Agency finds that:
  - 1) The requirements of 32 Ill. Adm. Code 330 and this Part have been met;
  - 2) The closure of the disposal facility has been made in conformance with the licensee's closure plan, as amended and approved as part of the license;
  - 3) The performance objectives of this Part are met;
  - 4) Any additional requirements resulting from new information developed during the post-closure period have been met and permanent monuments or markers warning against intrusion have been installed;
  - 5) The licensee has met all contractual requirements;
  - 6) Facility records and any funds held by the licensee for the institutional control plan have been transferred to the State;

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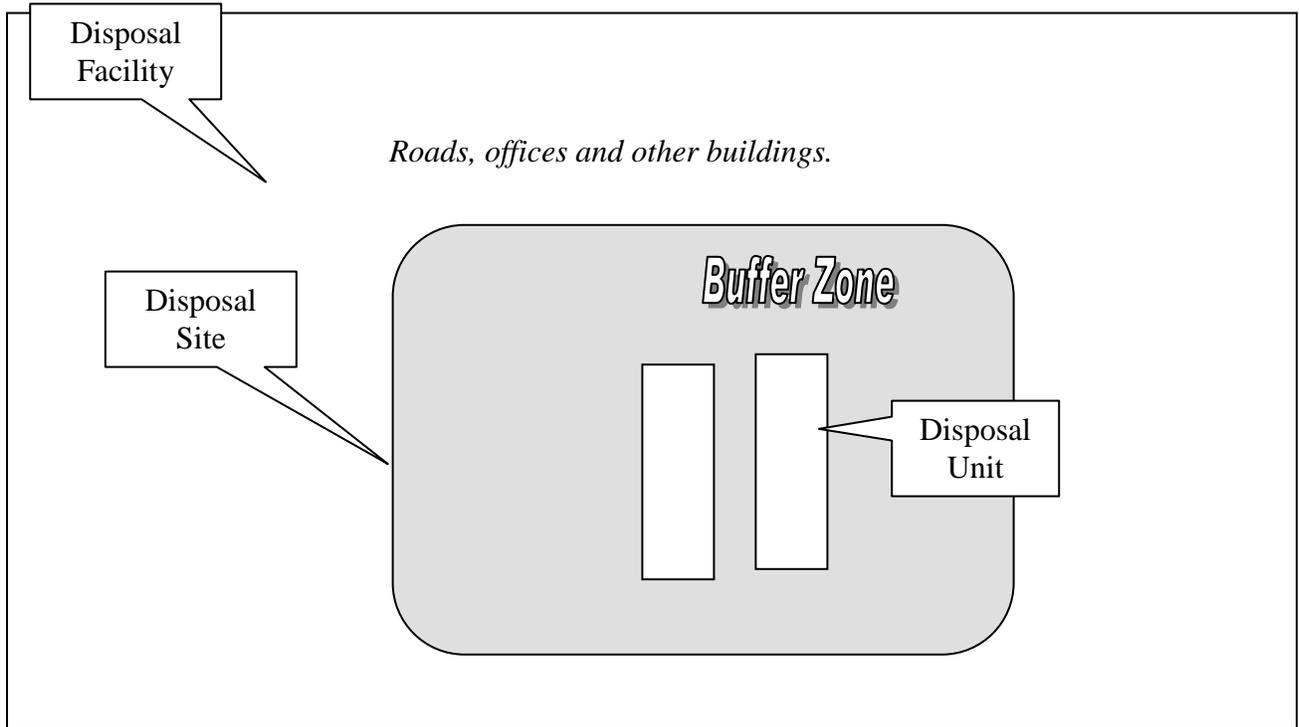
- 7) The post-closure monitoring program is operational for implementation by the State agency that will assume responsibility for institutional control of the disposal site; and
- 8) The State agency that will assume responsibility for institutional control of the disposal site is prepared to assume responsibility and ensure that the institutional control requirements found necessary under Section 601.90 will be met.

AGENCY NOTE: The State will implement the institutional control plan that will physically control access to the disposal site following transfer of control of the disposal site from the licensee and termination of the license. The institutional control program shall include, but not be limited to, carrying out an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, other requirements as determined by the State, and administration of funds to cover the costs for these activities. Under 10 CFR 61.59, controls may not be relied upon for more than 100 years following transfer of control of the disposal site by the licensee. It is the Agency's intention that controls will remain as long as they are necessary to protect the public health and safety and the environment.

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**601.APPENDIX A Diagram of Terms and General Locations**



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- 1) Heading of the Part: Requirements for the Disposal of Low-Level Radioactive Waste Away from the Point of Generation
- 2) Code Citation: 32 Ill. Adm. Code 606
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
606.10	Repealed
606.20	Repealed
606.30	Repealed
606.40	Repealed
606.50	Repealed
606.60	Repealed
606.70	Repealed
606.80	Repealed
606.90	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 6 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/6]
- 5) A Complete Description of the Subjects and Issues Involved: Repeals the Part last amended on November 1, 1994. This Part is being included in a new Part, 32 Ill. Adm. Code 601, that was filed in conjunction with this repealer.
- 6) Will this repealer replace any emergency amendments currently in effect? No
- 7) Does this repealer contain an automatic repeal date? No
- 8) Does this repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed repealer are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this proposed repealer:

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Public Hearing  
Tuesday, November 17, 2009  
1:00 to 4:00 PM  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois

Comments on this proposed repealer may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed repealer submitted during the 45 day comment period. Comments should be submitted to:

Louise M. Michels  
Staff Attorney  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704

217/785-9876 (voice)  
217/782-6133 (TDD)

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this repealer was summarized: July 2009

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

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## TITLE 32: ENERGY

## CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

## SUBCHAPTER d: LOW LEVEL RADIOACTIVE WASTE/TRANSPORTATION

## PART 606

REQUIREMENTS FOR THE DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE  
AWAY FROM THE POINT OF GENERATION (REPEALED)

## Section

606.10	Scope
606.20	Definitions
606.30	Requirements for Design, Construction, Operation, Monitoring, and Maintenance of the Low-Level Radioactive Waste Disposal Facility
606.40	Recordkeeping Requirements
606.50	Technical Qualifications of Personnel
606.60	Financial Responsibility of Facility Operator
606.70	Contingency Plan and Emergency Procedures
606.80	Closure, Post-Closure, Maintenance, and Institutional Care
606.90	Emergency Closure

AUTHORITY: Implementing and authorized by Section 6 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/6].

SOURCE: Adopted at 12 Ill. Reg. 4824, effective March 1, 1988; amended at 12 Ill. Reg. 18171, effective October 31, 1988; amended at 15 Ill. Reg. 8958, effective June 10, 1991; amended at 18 Ill. Reg. 16584, effective November 1, 1994; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; repealed at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 606.10 Scope**

This Part sets out standards applicable to facilities for the disposal of low-level radioactive wastes away from the point of generation. These standards are in addition to the requirements specified in the rules of the Department of Nuclear Safety entitled "Licensing Requirements of Land Disposal of Radioactive Waste" (32 Ill. Adm. Code 601). The development and operation of a disposal facility in compliance with the requirements of this Part and 32 Ill. Adm. Code 601 would *reflect the best available management technologies which are economically reasonable, technologically feasible, and environmentally sound for the disposal of low-level radioactive waste* as required by Section 6 of the Illinois Low-Level Radioactive Waste Management Act

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(the Act) [420 ILCS 20].

**Section 606.20 Definitions**

Except where otherwise indicated, the terms in this Part shall have the meaning provided in 32 Ill. Adm. Code 601. In addition, the following definitions shall apply:

- a) "Accepted engineering principles and practices" means those engineering principles and practices that are used by engineers when fulfilling their requirements and duties consistent with the specific requirements of this Part and as certified by a Professional Engineer licensed under the Illinois Professional Engineering Act (Ill. Rev. Stat. 1989, ch. 111, par. 5101).
- b) "Background Level" means the alpha, beta and gamma activity of radioactive elements which occur naturally in the air, water or soils at the facility site.
- c) "Department" means the Illinois Department of Nuclear Safety.
- d) "Disposal Facility" means *a parcel of land or site, together with structures, equipment and improvements on or appurtenant to the land or site, which is used or is being developed for the disposal of low-level radioactive waste. "Facility" does not include lands, sites, structures or equipment used by a generator in the generation of low-level radioactive wastes* (Section 3 of The Act).
- e) "Disposal Module" means a discrete portion of the disposal unit, including waste, waste packages, and engineered features.
- f) "Disposal Unit" means a discrete portion of the disposal site into which waste is place for disposal.
- g) "Low-Level Radioactive Waste" (or "Waste") *means radioactive waste not classified as high-level radioactive waste as defined in Section 2 of the Nuclear Waste Policy Act of 1982, 42 U.S.C. 10101, transuranic waste, spent nuclear fuel or byproduct material as defined in Section 11e(2) of the Atomic Energy Act of 1954, 42 U.S.C. 2014. Except when otherwise indicated in the rules, low-level radioactive waste includes "mixed waste."*
- h) "Mixed Waste" means waste that *is both "hazardous waste" and "low-level radioactive waste"* as defined in this Act (Section 3 of The Act).

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- i) "Shallow Land Burial" means *a land disposal facility in which radioactive waste is disposed of in or within the upper 30 meters of the earth's surface. However, this definition shall not include an enclosed, engineered, structurally re-enforced and solidified bunker that extends below the earth's surface* (Section 3 of The Act).

**Section 606.30 Requirements for Design, Construction, Operation, Monitoring, and Maintenance of the Low-Level Radioactive Waste Disposal Facility**

- a) Design and Construction of the Facility – Performance Objectives  
The disposal facility shall be designed and constructed, based on accepted engineering principles and practices, to further the following performance objectives:
- 1) The design and construction of the disposal facility shall utilize *the best available technology that is economically reasonable, technologically feasible, and environmentally sound for disposal of waste.* (Section 6 of the Act)
  - 2) The design of the disposal facility must be compatible with the expected waste characteristics, methods of operation, and proposed methods of closure and stabilization and shall demonstrate that the requirements of 32 Ill. Adm. Code 601 will be met.
  - 3) The facility design shall allow closure in a manner that isolates the wastes and waste constituents and that requires only minor custodial care to assure long term performance.
  - 4) The disposal facility shall be designed and constructed to provide for the complete containment of waste and waste constituents.
  - 5) The disposal facility shall be designed and constructed to allow remedial action, if necessary. Achievement of this objective shall not be accomplished by compromising, or in any way lessening, the ability of the disposal facility to satisfy the performance objectives and requirements of this Part and of 32 Ill. Adm. Code 601.
  - 6) Disposal units shall be designed so that their engineered components will

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maintain their structural integrity and prevent release of waste and waste constituents.

- b) Design and Construction of the Facility – Requirements
- 1) The disposal facility design shall not incorporate the use of shallow land burial or underground injection wells and shall provide for the use of above-ground modules or other designs to provide greater and safer confinement of low-level radioactive waste. The disposal facility shall meet the licensing requirements of 32 Ill. Adm. Code 601.
  - 2) The facility shall be designed to accept waste for disposal for a period of at least 50 years. Requisite capacity shall be based on volume and activity projections available from the Department pursuant to Section 4 of the Act. The facility shall be designed to accommodate waste generated during the decommissioning of nuclear power stations in Illinois.
  - 3) The facility shall be designed for the disposal of low-level radioactive waste.
  - 4) Support buildings (i.e., buildings at the facility other than those in which waste is disposed of) at the facility shall meet the following requirements:
    - A) All buildings shall be designed and constructed to be permanent in nature with an estimated lifetime of at least 60 years.
    - B) During the operational period of the facility, trailers and temporary buildings shall be limited to 12 months on site.
    - C) Buildings shall be designed, constructed and maintained in accordance with the following standards:
      - i) "Occupational Safety and Health Standards" of the Occupational Safety and Health Administration, 29 CFR 1910, Subparts A through Q and Subpart S, July 1, 1991, exclusive of subsequent amendments. A copy of this material is available for inspection at the Department.
      - ii) "Safety and Health Regulations for Construction"

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promulgated by the Occupational Safety and Health Administration, 29 CFR 1926, July 1, 1991, exclusive of subsequent amendments. A copy of this material is available for inspection at the Department.

- iii) Uniform Building Code, published by the National Conference of Building Officials, current as of 1994, but exclusive of subsequent amendments or editions. Copies of this code can be obtained directly from the National Conference of Building Officials, 5360 S. Workman Mills Road, Whittier CA 90601. A copy of this code is also available for inspection at the Department.
- iv) Uniform Mechanical Code, published by the National Conference of Building Officials, current as of 1994, but exclusive of subsequent amendments or editions. Copies of this code can be obtained directly from the National Conference of Building Officials, 5360 S. Workman Mills Road, Whittier CA 90601. A copy of this code is also available for inspection at the Department.
- v) National Electric Code, published by the National Fire Protection Association, current as of 1993, exclusive of subsequent amendments or editions. Copies of this code can be obtained directly from the National Fire Protection Association, Batterymarch Park, Quincy MA 02269. A copy of this code is also available for inspection at the Department.
- vi) Minimum Design Loads for Buildings and Other Structures, ASCE 7-93, current as of July 1993, exclusive of subsequent amendments or editions. Copies of the standard can be obtained directly from the American Society of Civil Engineers, 345 East 47<sup>th</sup> Street, New York, New York 10017-2398. A copy of the standard is also available for inspection at the Department.
- vii) Local Building Codes.

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- viii) In the event that two or more building standards conflict or apply, the most stringent standard shall be met.
- 5) The disposal unit shall be designed and constructed to withstand all natural phenomena, such as precipitation, earthquakes and tornadoes, which are expected to occur for five hundred years.
- 6) The disposal unit shall meet the following design requirements:
- A) Disposal modules shall be designed and constructed to incorporate multiple engineered safety features, such as, but not limited to, placing a cover over disposal modules, using backfill that adds structural strength to the module, and reinforcing modules with manufactured materials that are independently monitored and that provide structural support, prevent the release of waste and waste constituents and prevent inadvertent intrusion (See 32 Ill. Adm. Code 601.20);
  - B) The disposal unit shall be modular, incorporating design elements that will allow operation of the facility in such a manner that the amount of waste on site that is not yet permanently disposed of, as well as the time that waste is held on site prior to disposal, will be minimized;
  - C) Disposal modules must be designed and constructed to accommodate waste that cannot be packaged in standard containers, e.g., reactor components, contaminated steel;
  - D) Disposal modules made of manufactured materials must be designed and constructed, using accepted engineering principles and practices, to ensure that the tensile stress in the manufactured materials never exceeds the level that will cause the materials to fail. Any support provided by structural reinforcement, such as steel or rebar, shall be taken into account only if the structural reinforcement is designed and constructed to ensure maintenance of the structural reinforcement's minimum required strength for the entire design life of the disposal module;
  - E) Disposal modules must be designed to maintain their structural

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integrity regardless of the physical form of the waste;

- F) Disposal modules shall be designed and constructed so that water cannot infiltrate and remain in contact with waste packages;
  - G) Disposal modules must be constructed of materials that will not interact with each other, any surrounding earth, backfill, any cover material or base grade material in such a manner as to compromise the ability of the materials to perform their intended function;
  - H) If intruder barriers are required by 32 Ill. Adm. Code 601.250(b), disposal modules must be designed and constructed, using accepted engineering practices, with intruder barriers designed to last at least 500 years; and
  - I) Disposal module design shall allow characterization, modeling, analysis, and evaluation of the module's capability to contain waste.
- c) **Operation and Maintenance – Performance Objective**  
The low-level radioactive waste disposal facility shall be operated in a manner that reduces the risks associated with radiation to workers and the general public to levels that are as low as is reasonably achievable.
- d) **Operation and Maintenance – Requirements**
- 1) The facility shall be operated in compliance with following requirements applicable to licensees of the Department: 32 Ill. Adm. Code 200, 310, 320, 330, 340, 341, 400 and 601.
  - 2) Waste shall not be disposed of at the facility unless the waste complies with the applicable waste form standards. Any waste received that is not in compliance with these standards shall either be treated prior to disposal or returned to the generator or broker, provided the waste packages comply with the packaging requirements of 32 Ill. Adm. Code 341. Wastes may be treated at the disposal facility only if the operator is licensed to engage in treatment activities. If the waste packages are not in compliance with 32 Ill. Adm. Code 341, the operator shall either repackage the waste for return or treat the waste so that it is in a form

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which is acceptable for disposal. The generator or broker who shipped the waste to the disposal facility shall be liable for any expense incurred due to repackaging or processing unacceptable waste forms, or for expenses incurred in shipping the waste back to the generator if required.

AGENCY NOTE: Pursuant to Section 7 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/7], the Department will be promulgating rules setting forth waste form standards.

- 3) Waste shall not be disposed at the facility unless the waste is accompanied by a proper manifest. In the event that waste is received at the facility without a proper manifest, the operator shall notify the Department and contact the shipper to obtain a proper manifest. In the event that a proper manifest cannot be obtained, the facility operator shall take such other action as the Department requires, such as, but not limited to, analyzing the contents of the unmanifested shipment and preparing a manifest reflecting the results, and with the approval of the Department, based on requirements contained in the license and the Department's rules, disposing of the waste, in accordance with the requirements imposed by the facility license, at the shipper's expense.
- 4) The facility shall be operated so that no person outside the facility boundary receives a radiation dose in excess of 10 micro Sv (1 mrem) per year to the whole body as a result of the facility operations.
- 5) To the extent practicable, wastes shall be disposed of in containers of standard size and shape.
- 6) The facility shall be operated in a manner that reduces the amount of waste on site that has not yet been permanently disposed of and that minimizes the time the waste is held on site prior to disposal.
- 7) The facility operator shall provide personnel, equipment and procedures for acquiring environmental samples and conducting on-site tests to detect any releases of radionuclides into the air, soil, water and groundwater, as well as for monitoring occupational dose in accordance with 32 Ill. Adm. Code 340, Subpart F. In addition, the facility operator shall provide for environmental sampling and testing to detect releases of waste or waste constituents into the air, soil and water which are either, listed as

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hazardous in Subpart D of 40 CFR 261, or cause the waste to exhibit any of the hazardous waste characteristics identified in Subpart C of 40 CFR 261. 40 CFR 261 is incorporated as of July 1, 1993, exclusive of subsequent amendments or editions. A copy of 40 CFR 261 is available for inspection at the Department of Nuclear Safety.

- 8) The facility operator shall not accept waste at the facility until the waste shipment has been inspected and approved by the Department, as required by Section 9(e) of the Act. The operator shall provide office space, not smaller than 20 feet by 20 feet, in a building located near the gate where waste is received, to be used by the resident inspector from the Department. The operator will maintain the building and supply electricity, heat, air conditioning, water and restroom facilities.
  - 9) The facility operator shall maintain a direct data link with the Department's offices in Springfield and shall transmit to the Department facility records regarding the receipt, handling and disposition of low-level radioactive waste as required by this Part.
  - 10) The facility operator shall maintain a public documents room.
  - 11) The facility operator shall maintain a public information center in the community where the facility is located.
  - 12) The facility operator shall make all records of facility operations available upon request of the Department pursuant to its authority under Section 8 of the Act and Section 27 of the Radiation Protection Act of 1990 [420 ILCS 40/27], and shall provide access to every part of the facility to representatives of the Department.
- e) Facility Monitoring – Performance Objective  
The low-level radioactive waste disposal facility shall include a monitoring system, which, based on accepted engineering principles and practices, is capable of determining compliance with this Part and 32 Ill. Adm. Code 601.
- f) Facility Monitoring – Requirements
- 1) The disposal facility shall include a monitoring system for detecting releases of radioactive or hazardous material within the disposal modules

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during facility operations.

- 2) The disposal facility shall include a monitoring system for detecting releases of radioactive or hazardous materials from the disposal unit.
  - 3) The disposal facility shall include a monitoring system capable of detecting releases of radioactive or hazardous materials from the facility.
  - 4) The disposal facility shall include a monitoring system capable of detecting releases into the air, soil, surface water and groundwater.
- g) Maintenance
- 1) The facility operator shall conduct a program of in-situ testing of the design and construction of disposal modules. The in-situ testing program shall continue during the period of operation and closure. The program shall be designed to provide additional information regarding the expected long term performance of the facility, to identify any deficiencies or defects in design and construction of disposal units, and to form the basis for recommending changes in design, construction and operation of the facility that would increase the safety or efficiency of waste disposal.
  - 2) The facility operator shall, at all times, maintain the facility structures and equipment to promote occupational safety and worker protection, and to assure uninterrupted operation of the facility.

**Section 606.40 Recordkeeping Requirements**

- a) Annual Report
- The facility operator shall submit an annual report to the Director of the Department and shall place a copy of the report in the public documents room. This report shall contain, but need not be limited to, the following:
- 1) A summary of the sources, volumes, curie contents, and types of low-level radioactive waste received at the facility in the previous year and an inventory of the total volume and curie content of wastes disposed of at the facility since it commenced operation;
  - 2) A summary of facility operations;

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- 3) A description of any incidents in which radioactive materials were or could have been released, or accidents, as well as a description of any occupational exposures in excess of the limits set by 32 Ill. Adm. Code 340 which occurred during the previous year to the whole body, as a result of the facility operations;
  - 4) A description of the environmental and personnel monitoring programs and the results of those programs;
  - 5) A description of the status and adequacy of plans for closing the facility, actively maintaining the facility for a period of not less than 10 years following closure, and providing institutional care of the facility, specifying and considering information learned as a result of the program of in-situ testing and other facility operations during the previous year;
  - 6) An accounting of the fees collected by the facility operator for deposit by the Department into the "Low-Level Radioactive Waste Facility Closure, Post-Closure Care and Compensation Fund," established by Ill. Rev. Stat., ch. 111½, par. 241-14(b). The accounting shall be performed using the accounting standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants, current as July 1, 1987, exclusive of subsequent amendments or editions;
  - 7) The results of the program for in-situ testing and evaluation of disposal unit design and construction, and recommendations; and
  - 8) A description of any events that would jeopardize the continued safe operation of the facility.
- b) **Unmanifested Waste Report**  
The facility operator shall notify the Department inspector, immediately of any waste received at the facility that is unaccompanied by a proper manifest. In the inspector's absence, the operator shall notify the Department by telephone or telegraph within 24 hours of receipt.
- c) **Closure and Remedial Action Fund Status Reports**  
The facility operator shall submit quarterly reports on the amounts, status, and adequacy of liability coverage and funds available for closing the facility and

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implementing the contingency plan.

- d) **Accident Report**  
The facility operator shall provide a written report to the Department within seven days of any event resulting in either a release of radioactive material from a disposal unit or a radiation dose to any person outside the facility in excess of 1 millirem per year to the whole body. The report shall include:
- 1) A description of the release, resulting exposures and impacts;
  - 2) A description of the events causing such releases or exposures;
  - 3) A description of the remedial action taken; and
  - 4) A description of actions that will be taken to prevent such events from occurring in the future.

**Section 606.50 Technical Qualifications of Personnel**

- a) Personnel developing the facility shall meet the requirements listed below. The qualifications listed below are set forth as minimum requirements for the organization and must be met collectively, but not necessarily met by a single individual:
- 1) **Project Manager**  
The Project Manager must have previous managerial experience on a project of similar magnitude and complexity (i.e., a project of similar budget, duration, staffing and regulatory complexity). In addition, the Project Manager must have been manager of a project which involved supervision of at least 30 professional (engineering or other technical) employees. Additionally, the Project Manager must be familiar with federal, state and local requirements applicable to radioactive or hazardous waste disposal, or with radioactive materials licensing. The Project Manager's familiarity with these regulatory requirements shall have been obtained through involvement on previous projects.
  - 2) **Senior Project Engineer – The Senior Project Engineer shall:**
    - A) Be a Registered Professional Engineer, registered in Illinois by the

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Department of Professional Regulation in accordance with the Illinois Professional Engineering Act (Ill. Rev. Stat. 1985, ch. 111, par. 5101, et seq.) or be a Registered Professional Engineer in another state and be eligible for reciprocal registration within six months; and

- B) Have been a senior engineer on at least 2 other engineering projects of similar complexity and magnitude (i.e., projects of similar budget, duration, magnitude and regulatory complexity) as the proposed project.
- 3) Mechanical Engineer  
The mechanical engineer, if utilized, shall:
- A) Be a Registered Professional Engineer registered in Illinois by the Department of Professional Regulation in accordance with the Illinois Professional Engineering Act (Ill. Rev. Stat. 1985, ch. 111, par. 5101, et seq.) or be a Registered Professional Engineer in another state and be eligible for reciprocal registration within six months; or
  - B) Have a degree in mechanical engineering and at least 5 years experience as a mechanical engineer.
- 4) Geotechnical or Civil Engineer  
The geotechnical or civil engineer shall:
- A) Be a Registered Professional Engineer registered in Illinois by the Department of Professional Regulation in accordance with the Illinois Professional Engineering Act (Ill. Rev. Stat. 1985, ch. 111, par. 5101, et seq.) or be a Registered Professional Engineer in another state and be eligible for reciprocal registration within six months; or
  - B) Have a degree in geotechnical or civil engineering and at least 5 years experience as a geotechnical or civil engineer.
- 5) Structural Engineer  
At a minimum, the structural engineer shall:

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- A) Be Registered Structural Engineers, registered in Illinois by the Department of Professional Regulation in accordance with the Illinois Structural Engineering Act (Ill. Rev. Stat. 1985, ch. 111, par. 6501, et seq.), or be a Registered Structural Engineer in another state and be eligible for reciprocal registration within six months; and
  - B) Shall have at least 10 years of experience in reinforced concrete design and construction.
- 6) Geohydrologist  
The geohydrologist shall either:
- A) Hold a Master's Degree in geology or geohydrology, and have at least 5 years experience as a geohydrologist; or
  - B) Hold a bachelor's degree in geology and have at least 8 years of experience as geohydrologist.
- 7) Environmental Scientist  
The environmental scientist shall:
- A) Hold an advanced degree (Ph.D., M.A. or M.S.) in Environmental Science or related natural or physical science (e.g., chemistry, biology, or physics); and
  - B) Have at least 5 years experience in evaluating and mitigating environmental impacts.
- 8) Health Physicists
- A) Design, Development and Planning of Operation  
The health physicist shall either:
    - i) Be certified by the American Board of Health Physics, 800 W. Parkdrive, Suite 400, McLean, Va. 22101, in accordance with that organization's standards for certification in effect on January 1, 1988. A copy of these

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standards is available from the Department;

- ii) Hold a Doctorate (Ph.D.) in health physics or physics and have at least three years of applied radiation protection experience; or
- iii) Hold a Master's (M.S., M.A.) degree in health physics or physics and have at least five years of applied radiation protection experience.

## B) Operation

The health physicist shall either:

- i) Be certified by the American Board of Health Physics, 800 W. Parkdrive, Suite 400, McLean, Va., 22101, in accordance with that organization's standards for certification in effect on January 1, 1988. A copy of these standards is available from the Department;
- ii) Hold a Doctorate (Ph.D.) in health physics or physics and have at least three years of applied radiation protection experience;
- iii) Hold a Master's (M.S., M.A.) degree in health physics or physics and have at least five years of applied radiation protection experience; or
- iv) Hold a Bachelor's (B.S., B.A.) degree in health physics or in a natural or physical science, and have at least eight years of applied radiation protection experience.

## 9) Radiochemist

The radiochemist shall:

- A) Hold an advanced degree (Ph.D., M.A., M.S.) in radiochemistry or chemistry; and
- B) Have at least 5 years experience working in a radiochemistry laboratory.

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- 10) Community Liaison  
The community liaison shall have either:
  - A) An advanced degree (M.S., M.A., Ph.D.) in public administration or a related field (e.g., public affairs, technology and public policy) and a minimum of three years experience in conducting public participation programs, particularly those involving the siting and of locally controversial land uses; or
  - B) A bachelor's degree (B.A., B.S.) in public administration or a related field and a minimum of five years experience in conducting public participation programs, particularly those involving the siting of locally controversial land uses (such as prisons or sanitary landfills).
- b) Personnel operating facility:  
In addition to individuals listed in subsection (a), the operator shall have a comptroller and a management information services staff that meets the following qualifications:
  - 1) Comptroller – The comptroller shall be experienced in managing projects of similar budget size and complexity of the proposed project. The comptroller shall hold a degree in accounting and shall have at least 5 years experience.
  - 2) Information Management Services Specialist  
The information management specialist shall hold a bachelor's or graduate level degree in computer science or in Information Management and shall have at least three years of computer programming experience.
- c) All personnel shall have training in the following:
  - 1) The characteristics of radiation;
  - 2) The significance of radiation dose;
  - 3) The levels of radiation from sources of radiation;

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- 4) Methods of controlling radiation dose, including working time, working distances, and shielding;
- 5) Use of personnel monitoring equipment; and
- 6) The operator's operating and emergency procedures.

**Section 606.60 Financial Responsibility of Facility Operator**

- a) The facility operator shall meet either of the following tests to establish that it has the financial resources necessary to meet its financial obligations established under 32 Ill. Adm. Code 601, and the Illinois Low-Level Radioactive Waste Management Act.
  - 1) Test One: The operator must have:
    - A) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization of total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
    - B) Net working capital and tangible net worth each at least six times the sum of the closure and post-closure costs estimates provided in the license application as required by 32 Ill. Adm. Code 601.310; and
    - C) Tangible net worth of at least \$10 million; and
    - D) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the closure and post-closure estimates contained in license application.
  - 2) Test Two: The operator must have:
    - A) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor or Aaa, Aa, A or Baa as issued by Moody; and

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- B) Tangible net worth at least six times the sum of the closure and post-closure cost estimates contained in the license application as required by 32 Ill. Adm. Code 601.310; and
  - C) Tangible net worth of at least \$10 million; and
  - D) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the closure and post-closure cost estimates contained in the proposal.
- b) When determining whether the facility operator has satisfied the financial requirements of subsection (a), the Department shall apply the accounting standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants current as of July 1, 1987, exclusive of subsequent amendments or editions.
- c) The facility operator shall *post a performance bond with the Department or show evidence of liability insurance or other means of establishing financial responsibility in an amount sufficient to adequately provide for any necessary remedial actions or liabilities that might be incurred by the operation of a facility during the operating period and during a reasonable period of post-closure care* (Section 6(b) of The Act).

**Section 606.70 Contingency Plan and Emergency Procedures**

- a) Purpose and Implementation of Contingency Plan
- 1) The operator must have contingency plan for the facility. The contingency plan must be designed to minimize risks to human health and the environment from fires, explosions or any unplanned release, sudden or gradual, of waste or waste constituents to air, soil, surface water, and groundwater. The plan must also be designed to minimize risks or consequences that would result from temporary or premature closure of the disposal facility.
  - 2) The provisions of the contingency plan must be carried out immediately whenever there is a fire, explosion, release of waste or waste constituents to the environment, or whenever there is an unscheduled closure of the facility, either temporary or permanent.

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- b) Content of Contingency Plan; Procedures
- 1) The facility operator shall prepare a contingency plan which provides the response action to be taken in the event that there is a release of radionuclides, there is a temporary inability to dispose of wastes at the facility (e.g., because the facility has been closed temporarily), or the facility is permanently closed. Plans shall be specific to the particular contingency being addressed and shall include at a minimum the specific information required by subsection (b)(2).
  - 2) The facility operator shall consult with the Department and the Illinois Emergency Services and Disaster Agency and prepare a contingency plan to respond to a potential release of radionuclides. Local authorities shall also be encouraged to assist in the preparation of the contingency plan. At a minimum, this plan shall contain the following:
    - A) A description of the licensee's facility and the area near the site;
    - B) An identification of each type of accident for which protective actions for the public may be needed;
    - C) An analysis of the potential doses to the public from each type of accident;
    - D) Identification of the means of detecting each type of accident in a timely manner;
    - E) A description of the procedures and equipment for mitigating the consequences of each type of accident, including equipment provided to protect workers on-site;
    - F) A description of the methods and equipment used to monitor and evaluate releases of radioactive materials;
    - G) A description of the responsibilities of the operator's personnel should an accident occur, including identification of personnel responsible for notifying off-site authorities and notifying the Department;

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- H) A description of the means for notifying immediately off-site authorities and for requesting off-site assistance resources;
  - I) A description of the methods for assuring that recommended protective actions and distances are communicated to response organizations and the public;
  - J) A description of instructions the operator would give to fire, police, medical, and other emergency personnel;
  - K) A description of the means for restoring the facility to a condition that is consistent with the provisions of this Part, Part 601, and the terms of the facility license, after an accident and for remediating releases to unrestricted areas to background levels;
  - L) Provisions for conducting on-site drills prior to initial receipt of waste for disposal, at least once annually thereafter, and within 30 days after any amendment of the contingency plan which is required by subsection (d)(1)(A), (B), or (C). Local fire, police, medical and other personnel who might be called upon in an emergency shall be allowed to participate in the drills;
- c) Copies of Contingency Plan  
A copy of the contingency plan and all revisions to the plan must be:
- 1) Maintained at the facility;
  - 2) Submitted to the Department;
  - 3) Submitted to the Illinois Emergency Services and Disaster Agency; and
  - 4) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that might be called upon to provide emergency services.
- d) Amendment of Contingency Plan
- 1) The contingency plan must be reviewed and immediately amended, if

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necessary to maintain compliance with this Section, whenever:

- A) The facility license is revised;
  - B) The existing contingency plan fails when actually applied;
  - C) The facility changes in a way that materially increases the potential for fires, explosions or releases of waste or waste constituents (e.g., a change of manufactured materials used, a change in facility design) or changes the response necessary in the event of an emergency;
  - D) The list of emergency coordinators changes; or
  - E) The list of emergency equipment changes.
- 2) If the contingency plan is amended to comply with subsections (d)(1)(A), (B), or (C), the complete plan, as amended, shall be distributed to those entities identified in subsection (c) above. If the plan is amended to comply with subsections (d)(1)(D) or (E), only the revised lists need be distributed.
  - 3) The contingency plan shall be reviewed and revised as necessary, at least once every five years.
- e) Emergency Coordinator
- 1) At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within 60 minutes) who is responsible for coordinating all emergency response measures.
  - 2) This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator must also be competent to carry out responsibilities as described in subsection (b).

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**Section 606.80 Closure, Post-Closure, Maintenance, and Institutional Care**

- a) Closure, Post-Closure, Maintenance and Institutional Care – Performance Objective:
  - 1) The facility shall be closed in a manner that isolates waste and requires only minor custodial care for ongoing maintenance to assure long term performance.
  - 2) The facility shall be closed in a manner which considers future beneficial uses, so documented in the provisions required under 32 Ill. Adm. Code 605, of the site and surrounding areas consistent with 32 Ill. Adm. Code 605.70(b). This objective shall not be accomplished by any method which compromises, or in any way, lessens the ability of the facility to be closed in accordance with other objectives and requirements of this Part and 32 Ill. Adm. Code 601.
- b) Closure, Post-Closure, Maintenance and Institutional Care Requirements:
  - 1) Closure Plan – The facility operator shall prepare a closure plan prior to constructing the facility. The plan shall be consistent with the performance objectives of this Part and 32 Ill. Adm. Code 601, and shall include, but need not be limited to the following:
    - A) A procedure for disposal of all waste and contaminated equipment remaining on site at the time of closure, removal of structures and equipment, and installation of permanent markers;
    - B) An estimate of the funds needed to close the facility, and provisions for assuring the availability of those funds pursuant to 32 Ill. Adm. Code 601, and Section 14(b) of The Act;
    - C) A description of how the facility closure will satisfy the performance objectives of this Section and the requirements of 32 Ill. Adm. Code 601;
    - D) A description of the permissible users of the facility and buffer zone following any closure; and

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- E) A description of the monitoring systems to be implemented during the closure, post-closure, and institutional control periods.
- 2) Closure Funds – The facility operator shall maintain or provide for the availability of funds sufficient to implement the closure plan. The amount of the funds shall be based on the assumption that an independent contractor other than the facility operator, will be hired to implement the plan. Mechanisms for assuring that closure funds are available are as specified in 32 Ill. Adm. Code 601.310(g).
  - 3) Disposal Module Closure:
    - A) The facility operator shall close each disposal module as it reaches its designed waste capacity, or sooner, if needed for safe operation, e.g., to avoid unnecessarily subjecting open modules to freeze/thaw cycles, or to avoid unnecessary worker exposures. Closures shall be in accordance with the plan for facility closure and pursuant to a license amendment granted by the Department in accordance with 32 Ill. Adm. Code 601.
    - B) The facility operator shall submit an application to the Department for a license amendment to close each disposal module not more than 90 days or less than 30 days prior to any anticipated closure.
    - C) Not later than 30 days following any disposal unit closure, the facility operator shall certify in writing to the Department that the disposal unit has been closed in accordance with the requirements of this Part.
  - 4) Facility Closure:
    - A) The facility operator shall close the facility at the end of its operating lifetime.
    - B) Not more than two years nor less than one year prior to anticipated facility closure, the facility operator shall submit an application to the Department for a license amendment to close the facility.

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- C) Upon granting of the license amendment, the facility operator shall close the facility in accordance with the closure plan and the license conditions imposed.
  - D) Within six months of completing facility closure, the facility operator shall certify in writing to the Department that the facility has been closed in accordance with the requirements of this Part.
- c) Post-Closure Active Maintenance Requirements:
- 1) Post-Closure Active Maintenance Plan – The facility operator shall prepare, prior to constructing the facility, a plan for active facility maintenance. The plan shall be consistent with the performance objectives of this Part and 32 Ill. Adm. Code 601, and shall include, but need not be limited to:
    - A) A procedure for accepting, and evaluating, the performance of both engineered and natural barriers to radionuclide release or migration at the facility.
    - B) A procedure for monitoring the air, soil, surface water, and groundwater at the facility site.
    - C) A procedure for confirming that the facility will meet the long term performance objectives of this Part or the requirements of 32 Ill. Adm. Code 601.
    - D) A procedure for identifying potential failure to meet the performance objectives of this Part or the requirements of 32 Ill. Adm. Code 601.
    - E) A procedure for correcting any condition that would result in a failure to meet the performance objectives of this Part or the performance objectives of 32 Ill. Adm. Code 601.
    - F) An estimate of the funds needed to implement the plan for a period of ten years.
  - 2) Post-Closure Active Maintenance:

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- A) The facility operator shall conduct a program for active site maintenance for a ten year period following facility closure.
  - B) The operator shall remain at the facility site, inspect and repair engineered barriers, as necessary, maintain site security, and continue the program of facility monitoring and reporting to the Department.
- d) Institutional Care and Monitoring: Requirements
- 1) Institutional Care and Maintenance Plan – The facility operator shall prepare, prior to constructing the facility, a plan for the long term care, maintenance, and monitoring of the facility. The plan shall describe the activities to be taken by the site owner following the ten year period of active maintenance by the facility operator and after transfer of title and custody and termination of the facility license. The plan shall be consistent with the performance objectives of this Part and 32 Ill. Adm. Code 601, and shall include but need not be limited to the following:
    - A) A procedure for monitoring the air, soil, surface, and groundwater at the facility site, and in the vicinity of the facility site.
    - B) Plans for taking remedial action in the event that the facility fails to meet the performance objectives of this Part and 32 Ill. Adm. Code 601.
    - C) An estimate of the costs necessary to carry out the institutional monitoring plan for a period of 300 years.
    - D) An estimate of the costs of implementing the remedial action plans.
- e) Transfer of Custody – At the end of the post-closure care and maintenance period, the facility operator shall submit a report to the Department regarding the projected long term performance of the facility and shall apply for a license amendment, in accordance with the requirements of 32 Ill. Adm. Code 601.170, for termination of the license and transfer of title and custody of the facility to the State of Illinois.

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**Section 606.90 Emergency Closure**

- a) Upon finding that immediate closure of the facility is necessary to avoid an imminent threat to the public health or safety, or the environment, the Director of the Department shall issue an emergency closure order to the facility operator. An emergency closure order may be issued by the Director in the event of either:
  - 1) A finding of non-compliance with any applicable regulation of the Department, if such non-compliance is determined by the Director to pose a risk of a release of radioactive material beyond the site boundary in excess of any applicable limit imposed by 32 Ill. Adm. Code 340, or an occupational dose in excess of the performance standards imposed by 32 Ill. Adm. Code 601 and this Part; or
  - 2) A finding that continued operation of the facility represents *a significant and immediate threat to the public health or safety, as evidenced by a violation of any provisions of the Radiation Protection Act of 1990 or Illinois Low-Level Radioactive Waste Management Act or any code, rule, regulation or order promulgated under these Acts, and that requires immediate action to protect the public welfare* (Section 38 of the Radiation Protection Act of 1990 [420 ILCS 40/38] and Section 8 of the Act).
- b) Upon receipt of a written order requiring immediate closure, the facility operator shall immediately take the following actions:
  - 1) Implement the contingency plan required by Section 606.70;
  - 2) Notify all persons holding a site use permit or similar evidence of permission to use the facility; and
  - 3) Notify the Central Midwest Interstate Low-Level Radioactive Waste Commission.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: IRS Qualification Status Requirements for Article 3 Police Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4440
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
4440.10	New Section
4440.20	New Section
4440.30	New Section
4440.40	New Section
4440.50	New Section
4440.60	New Section
4440.70	New Section
4440.80	New Section
4440.85	New Section
4440.90	New Section
4440.100	New Section
4440.110	New Section
4440.120	New Section
4440.130	New Section
4440.140	New Section
4440.150	New Section
4440.160	New Section
4440.170	New Section
4440.180	New Section
4440.190	New Section
4440.200	New Section
4440.210	New Section
4440.220	New Section
4440.230	New Section
4440.240	New Section
4440.250	New Section
4440.260	New Section
4440.270	New Section
4440.280	New Section
4440.290	New Section
4440.300	New Section
4440.310	New Section

## DEPARTMENT OF INSURANCE

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- 4) Statutory Authority: Implementing Sections 1A-103 and 1A-113 of the Illinois Pension Code [40 ILCS 5/1A-103 and 5/1A-113]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is intended to incorporate language into the 'plan document' or State statutes and administrative rules for the purpose of meeting Internal Revenue Service (IRS) regulations to obtain a "Qualified Status" under the IRS regulations for the Article 3 police pension funds in Illinois. The recognition as a qualified plan allows pension plans to maintain pretax status as well as to benefit from preferential tax treatment in other areas, such as duty disabilities being nontaxed federally and the ability to transfer monies from one qualified plan to another qualified plan with a tax penalty and the transferred money being taxed at the time of the transfer. In order for the pension funds to be recognized as qualified plans, the plan document or State Statutes and Pension related Administrative Code would need to incorporate federal tax law changes as they are adopted, which the plan document for Illinois Article 3 funds has not done. Additional language regarding three topics are required: 1) Rule on Rollovers; 2) Rule on Required Distributions; and 3) Rule on 415 Limitations.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis  
Senior Staff Attorney

Susan Anders  
Rules Unit

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

or

Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

217/782-2867

217/785-8220

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Municipal police pension funds established under Article 3 of the Illinois Pension Code [40 ILCS 5/Art. 3]
  - B) Reporting, bookkeeping or other procedures required for compliance: Please review all provisions of this Part.
  - C) Types of professional skills necessary for compliance: Administrative
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER aaa: PENSIONS

## PART 4440

## IRS QUALIFICATION STATUS FOR ARTICLE 3 POLICE PENSION FUNDS

## SUBPART A: GENERAL PROVISIONS

Section	
4440.10	Purpose
4440.20	Applicability
4440.30	Definitions

## SUBPART B: RULE ON ROLLOVERS

Section	
4440.40	General Rule
4440.50	Eligible Rollover Distribution
4440.60	Eligible Retirement Plan
4440.70	Distributee
4440.80	Direct Rollover
4440.85	Involuntary Lump Sum Distributions

## SUBPART C: RULE ON REQUIRED DISTRIBUTIONS

Section	
4440.90	General Rule
4440.100	Minimum Required Distributions
4440.110	Incidental Benefit Rule

## SUBPART D: RULE ON 415 LIMITATIONS

Section	
4440.120	Basic 415 Limitations
4440.130	Limitation Year
4440.140	Participation in Other Qualified Plans: Aggregation of Limits
4440.150	Basic 415(b) Limitation
4440.160	Definition of Annual Benefit

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4440.170	Adjustments to Basic 415(b) Limitation for Form of Benefit
4440.180	Benefits Not Taken into Account for 415(b) Limit
4440.190	Other Adjustments in 415(b) Limitation
4440.200	Less than 10 Years of Service Adjustment for 415(b) Limitations
4440.210	\$10,000 Limit
4440.220	Effect of COLA without a Lump Sum Component on 415(b) Testing
4440.230	Effect of COLA with a Lump Sum Component on 415(b) Testing
4440.240	415(c) Limit
4440.250	Service Purchases under IRC Section 415(n)
4440.260	Modification of Contributions for 415(c) and 415(n) Purposes
4440.270	Repayments of Cashouts
4440.280	Reduction of Benefits Priority

## SUBPART E: RULE ON GENERAL COMPLIANCE

## Section

4440.290	Compliance with Internal Revenue Code
4440.300	Plan Termination
4440.310	Vesting and Forfeitures

AUTHORITY: Implementing Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103].

SOURCE: Adopted at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 4440.10 Purpose**

This Part sets forth the procedural requirements for the submission of the annual compliance fee by pension funds to the Department of Insurance as required by Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112].

**Section 4440.20 Applicability**

This Part applies to every Article 3 police pension fund that is required to file an annual statement with the Department of Insurance pursuant to Section 1A-109 of the Illinois Pension Code [40 ILCS 5/1A-109].

**Section 4440.30 Definitions**

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

Annual Benefit means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC section 415(n)) and to rollover contributions (as defined in IRC section 415(b)(2)(A)).

Benefit Attributable means a benefit determined in accordance with Treasury Regulations (see 26 CFR 1.415(b)(2)(A)).

Department means the Illinois Department of Insurance.

Internal Revenue Code or IRC means 26 USC.

Member means participant in a police pension fund under Article 3 of the Illinois Pension Code [40 ILCS 5].

Nonqualified Service Credit means permissive service credit other than that allowed with respect to:

service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in IRC section 415(k)(3));

service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

service as an employee of an association of employees who are described in the first indented paragraph of this definition; or

military service (other than qualified military service under IRC section 414(u)) recognized by the plan.

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Non-spousal Beneficiary means minor children, disabled children or dependent parents receiving survivor benefits.

Pension Fund means any public pension fund established under Article 3 of the Illinois Pension Code [40 ILCS 5/Art. 3].

Permissive Service Credit means service credit:

recognized by the plan for purposes of calculating a member's benefit under the plan;

that the member has not received under the plan; and

that the member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.

Public Pension Division means the Public Employee Pension Division of the Department of Insurance.

Treasury Regulation means 26 CFR.

## SUBPART B: RULE ON ROLLOVERS

**Section 4440.40 General Rule**

Beginning January 1, 1993, pursuant to 40 ILCS 5/1-106(b), a pension fund may, and to the extent required by federal law shall, at the request of any person entitled to receive an eligible rollover distribution from the pension fund, pay any portion of that eligible rollover distribution directly to an eligible retirement plan designated in writing by the person.

**Section 4440.50 Eligible Rollover Distribution**

- a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
  - 1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life

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expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

- 2) any distribution to the extent that distribution is required under IRC section 401(a)(9);
- 3) the portion of any distribution that is not includible in gross income; and
- 4) any other distribution that is reasonably expected to total less than \$200 during the year.

b) Effective:

- 1) January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, that portion may be transferred only:
  - A) to an individual retirement account or annuity described in IRC section 408(a) or (b);
  - B) to a qualified defined contribution plan described in IRC section 401(a); or
  - C) to a qualified plan described in IRC section 403(a); or

2) on or after January 1, 2007:

- A) to a qualified defined benefit plan described in IRC section 401(a); or
- B) to an annuity contract described in IRC section 403(b).

c) The provisions of subsection (b) apply only if the account, annuity or plan agrees to separately account for amounts transferred (and earnings on that amount), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible.

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- d) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse.

**Section 4440.60 Eligible Retirement Plan**

An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

- a) an individual retirement account described in IRC section 408(a);
- b) an individual retirement annuity described in IRC section 408(b);
- c) an annuity plan described in IRC section 403(a);
- d) a qualified trust described in IRC section 401(a);
- e) effective January 1, 2002, an annuity contract described in IRC section 403(b);
- f) effective January 1, 2002, a plan eligible under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this Part; or
- g) effective January 1, 2009, to the extent required by federal law and permitted under a retirement or pension system subject to this Part, a Roth IRA described in IRC section 408A.

**Section 4440.70 Distributee**

A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse. Effective January 1, 2008, to the extent permitted under a pension plan subject to this Part, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may roll over the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

**Section 4440.80 Direct Rollover**

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A direct rollover is a payment by the pension plan to the eligible retirement plan specified by the distributee.

**Section 4440.85 Involuntary Lump Sum Distributions**

Involuntary lump sum distributions shall not be made except in the following situations:

- a) The distribution is made to a member who is at least normal retirement age under the plan.
- b) The distribution to be made to a member does not exceed \$1000 (excluding rollover contributions).
- c) The distribution is made to a survivor or beneficiary of a member.

## SUBPART C: RULE ON REQUIRED DISTRIBUTIONS

**Section 4440.90 General Rule**

Notwithstanding any other provision to the contrary, and pursuant to 40 ILCS 5/1-116.1, distributions from a pension fund shall conform with a good faith interpretation of IRC section 401(a)(9) and the regulations under that section (26 CFR 1.401(a)(9)) as applicable to a governmental plan within the meaning of IRC section 414(d).

**Section 4440.100 Minimum Required Distributions**

Effective on and after January 1, 2003, each pension fund shall be subject to the following provisions:

- a) Benefit payments must begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the plan member reaches 70½ years of age or April 1 of the calendar year following the calendar year in which the plan member terminates employment. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by this Section.

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- b) The plan member's entire interest must be distributed over the plan member's life or the lives of the plan member and a designated beneficiary or beneficiaries, or over a period not extending beyond the life expectancy of the plan member or of the plan member and a designated beneficiary. Death benefits must be distributed in accordance with IRC section 401(a)(9), including the incidental death benefit requirement in IRC section 401(a)(9)(G), and the regulations implementing that Section.
- c) The life expectancy of a plan member, the plan member's spouse or the plan member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.
- d) If a plan member dies after the required distribution of benefits has begun, the remaining portion of the plan member's interest must be distributed at least as rapidly as under the method of distribution before the plan member's death and no longer than the remaining period over which distributions commenced.
- e) If a plan member dies before required distribution of the plan member's benefits has begun, the plan member's entire interest must be either:
  - 1) distributed (in accordance with federal regulations (26 CFR 1.401(a)(9))) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the plan member's death; or
  - 2) distributed by December 31 of the calendar year containing the fifth anniversary of the plan member's death.

**Section 4440.110 Incidental Benefit Rule**

- a) The amount of survivor benefits paid to a plan member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.
- b) The death and disability benefits provided by a plan are limited by the incidental benefit rule set forth in IRC section 401(a)(9)(G) and 26 CFR 1.401-1(b)(1)(i).

## SUBPART D: RULE ON 415 LIMITATIONS

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**Section 4440.120 Basic 415 Limitations**

Notwithstanding any other provisions to the contrary, and pursuant to 40 ILCS 5/1-116, the member contributions made to, and retirement benefits paid from, a pension fund shall be limited to such extent as may be necessary to conform to the requirements of section 415 of the Internal Revenue Code, for a qualified pension plan.

**Section 4440.130 Limitation Year**

For purposes of this Part, pursuant to IRC section 415, the limitation year for a Police Pension Fund is the calendar year.

**Section 4440.140 Participation in Other Qualified Plans: Aggregation of Limits**

- a) The limit established by IRC section 415(b), with respect to any member who at any time has been a member of any other defined benefit plan as defined in IRC section 414(j), that was maintained by the member's same employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one plan.
- b) The limit established by IRC section 415(c), with respect to any member who at any time has been a member of any other defined contribution plan, as defined in IRC section 414(i), that was maintained by the member's same employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable to one plan.

**Section 4440.150 Basic 415(b) Limitation**

Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in IRC section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415(b)(1)(A), subject to the applicable adjustments in IRC section 415(b), and subject to any additional limits that may be specified in this Section. In no event shall a member's annual benefit payable in any limitation year from a pension fund be greater than the limit applicable at the pension benefit starting date, as increased in subsequent years pursuant to IRC section 415(d) and related Treasury Regulations (26 CFR 1.415(d)).

**Section 4440.160 Definition of Annual Benefit**

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For purposes of IRC section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC section 415(n)) and to rollover contributions (as defined in IRC section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations (26 CFR 1.415(b)(2)(A)).

**Section 4440.170 Adjustments to Basic 415(b) Limitation for Form of Benefit**

- a) If the benefit under the pension fund is other than the form specified in Section 4440.160, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations (26 CFR 1.415(b)).
- b) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subsection (a) is applied by either reducing the IRC section 415(b) limit applicable at the pension benefit starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in 26 CFR 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:
  - 1) For a benefit paid in a form to which IRC section 417(e)(3) does not apply (a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced 415(b) limit applicable at the annuity starting date that is the "lesser of", when adjusted in accordance with the following assumptions):
    - A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or
    - B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in IRC section 417(e)(3)(B) (see Notice 2008-85, published by the Internal Revenue Service on September 29, 2008); or

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- 2) For a benefit paid in a form to which IRC section 417(e)(3) applies (a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced 415(b) limit applicable at the annuity starting date that is the "least of", when adjusted in accordance with the following assumptions):
  - A) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - B) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85); or
  - C) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement and, on and after January 1, 2007, using the rate then in effect for the first day of the plan year, with a one-year stabilization period)) and the applicable mortality rate for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85), divided by 1.05.

**Section 4440.180 Benefits Not Taken into Account for 415(b) Limit**

For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

- a) Any ancillary benefit that is not directly related to retirement income benefits;

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- b) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
- c) Any other benefit not required under IRC section 415(b)(2) and related Treasury Regulations (26 CFR 1.415(b)) to be taken into account for purposes of the limitation of IRC section 415(b)(1).

**Section 4440.190 Other Adjustments in 415(b) Limitation**

- a) In the event the member's retirement benefits become payable before age 62, the limit prescribed by this Subpart shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of IRC section 415(b), so that the limit (as so reduced) equals an annual straight life benefit (when the retirement income benefit begins) equivalent to a \$160,000 (as adjusted) annual benefit beginning at age 62.
- b) In the event the member's benefit is based on at least 15 years of service as a full-time employee of any police department or on 15 years of military service, the adjustments provided for in subsection (a) shall not apply.
- c) The reductions provided for in subsection (a) shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

**Section 4440.200 Less than 10 Years of Service Adjustment for 415(b) Limitations**

The maximum retirement benefits payable to any member who has completed less than 10 years of service shall be the amount determined under Section 4440.150 multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is 10. The reduction provided by this Section cannot reduce the maximum benefit below 10%. The reduction provided by this Section shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

**Section 4440.210 \$10,000 Limit**

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the IRC section 415 limit if the benefits payable, with respect to the member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed \$10,000 for the applicable limitation year and for

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any prior limitation year, and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

**Section 4440.220 Effect of COLA without a Lump Sum Component on 415(b) Testing**

Effective on and after January 1, 2003, for purposes of applying the IRC section 415(b) limit to a member with no lump sum benefit, the following will apply:

- a) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
- b) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until the benefit plus the accumulated increases are less than the 415(b) limit;
- c) in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the IRC section 415(b)(1)(A) dollar limit under IRC section 415(d), and the related Treasury Regulations (26 CFR 1.415(b)).

**Section 4440.230 Effect of COLA with a Lump Sum Component on 415(b) Testing**

On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by IRC section 415(b) and applicable Treasury Regulations (26 CFR 1.415(b)).

**Section 4440.240 415(c) Limit**

After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to IRC section 415(d)) or 100% of the member's compensation.

- a) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

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- b) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation, where applicable, will be compensation actually paid or made available during a limitation year, except as noted in subsection (c) and as permitted by 26 CFR 1.415(c)-2; however, member contributions picked up under IRC section 414(h) shall not be treated as compensation.
- c) Unless another definition of compensation that is permitted by 26 CFR 1.415(c)-2 is specified by the plan, compensation will be defined as wages within the meaning of IRC section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under IRC section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC section 3401(a)(2)).
- 1) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of IRC section 132(f)(4).
  - 2) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
    - A) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

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- B) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.
- 3) Back pay, within the meaning of 26 CFR 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this subsection (c).

**Section 4440.250 Service Purchases under IRC Section 415(n)**

- a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC section 415(n) will be treated as met only if:
  - 1) the requirements of IRC section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC section 415(b); or
  - 2) the requirements of IRC section 415(b) are met, determined by treating all such contributions as annual additions for purposes of IRC section 415(c).
- b) For purposes of applying this Section, a pension fund will not fail to meet the reduced limit under IRC section 415(b)(2)(C) solely by reason of this Section and will not fail to meet the percentage limitation under IRC section 415(c)(1)(B) solely by reason of this Section.
- c) Permissive Service Credit
  - 1) For purposes of this Section, the term "permissive service credit" means service credit:
    - A) recognized by the plan for purposes of calculating a member's benefit under the plan;
    - B) that the member has not received under the plan; and

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- C) that the member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.
- 2) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term may include service credit for periods for which there is no performance of service and, notwithstanding subsection (c)(1)(B), may include service credited in order to provide an increased benefit for service credit a member is receiving under the plan.
- d) A pension fund will fail to meet the requirements of this Section if:
- 1) more than 5 years of nonqualified service credit are taken into account for purposes of this Section; or
- 2) any nonqualified service credit is taken into account under this Section before the member has at least five years of participation under the plan.
- e) For purposes of subsection (d), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:
- 1) service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in IRC section 415(k)(3));
- 2) service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

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- 3) service as an employee of an association of employees who are described in subsection (e)(1); or
  - 4) military service (other than qualified military service under IRC section 414(u)) recognized by the plan.
- f) In the case of service described in subsections (e)(1) through (3), the service will be nonqualified service if recognition of the service would cause a member to receive a retirement benefit for the same service under more than one plan.
- g) In the case of a trustee-to-trustee transfer after December 31, 2001 to which IRC section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):
- 1) the limitations of subsection (d) will not apply in determining whether the transfer is for the purchase of permissive service credit; and
  - 2) the distribution rules applicable under federal law to the plan will apply to the transferred amounts and any benefits attributable to those amounts.
- h) For an eligible participant, the limitation of IRC section 415(c)(1) shall not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this subsection (h), an eligible participant is an individual who first became a participant in the plan before January 1, 1998.

**Section 4440.260 Modification of Contributions for 415(c) and 415(n) Purposes**

Notwithstanding any other provision of law to the contrary, a pension fund may modify a request by a member to make a contribution under this Part if the amount of the contribution would exceed the limits provided in IRC section 415 by using the following methods:

- a) If the law requires a lump sum payment for the purchase of service credit, a pension fund may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC section 415(c) or 415(n).
- b) If payment pursuant to this Section will not avoid a contribution in excess of the limits imposed by IRC section 415(c) or 415(n), a pension fund may either reduce

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the member's contribution to an amount within the limits of those IRC sections or refuse the member's contribution.

**Section 4440.270 Repayments of Cashouts**

Any repayment of contributions (including interest) to a pension fund with respect to an amount previously refunded upon a forfeiture of service credit under a pension fund shall not be taken into account for purposes of IRC section 415, in accordance with applicable Treasury Regulations (26 CFR 1.415).

**Section 4440.280 Reduction of Benefits Priority**

- a) Reduction of benefits and/or contributions to all plans, when required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated.
- b) Except as otherwise provided in subsection (c), the reduction shall be made:
  - 1) first, with respect to the plan in which the member most recently accrued benefits and thereafter in the priority determined by the plan and the plan administrator of the other plans; then
  - 2) by reducing the member's defined contribution component benefit under any defined benefit plans; then
  - 3) by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in the priority established by the plan and the plan administrator for the other plans.
- c) However, the necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering the member.

## SUBPART E: RULE ON GENERAL COMPLIANCE

**Section 4440.290 Compliance with Internal Revenue Code**

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Each of the plans established under Article 3 of the Pension Code is intended to be a qualified defined benefit plan under IRC sections 401(a) and 414(d).

**Section 4440.300 Plan Termination**

Upon plan termination, a member's interest in a pension fund will be nonforfeitable.

**Section 4440.310 Vesting and Forfeitures**

- a) A plan member shall be 100% vested in his or her accumulated contributions at all times.
- b) In conformity with IRC section 401(a)(8), any forfeitures of benefits by members or former members of the plan will not be used to pay benefit increases. However, forfeitures shall be used to reduce employer contributions.

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- 1) Heading of the Part: IRS Qualification Status Requirements for Article 4 Firefighter Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4445
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
4445.10	New Section
4445.20	New Section
4445.30	New Section
4445.40	New Section
4445.50	New Section
4445.60	New Section
4445.70	New Section
4445.80	New Section
4445.90	New Section
4445.100	New Section
4445.110	New Section
4445.120	New Section
4445.130	New Section
4445.140	New Section
4445.150	New Section
4445.160	New Section
4445.170	New Section
4445.180	New Section
4445.190	New Section
4445.200	New Section
4445.210	New Section
4445.220	New Section
4445.230	New Section
4445.240	New Section
4445.250	New Section
4445.260	New Section
4445.270	New Section
4445.280	New Section
4445.290	New Section
4445.300	New Section
4445.310	New Section

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- 4) Statutory Authority: Implementing Sections 1A-103 and 1A-113 of the Illinois Pension Code [40 ILCS 5/1A-103 and 5/1A-113]
- 5) A Complete Description of the Subjects and Issues Involved: The Part is intended to incorporate language into the 'plan document' or state statutes and administrative rules for the purpose of meeting Internal Revenue Service (IRS) regulations to obtain a "Qualified Status" under the IRS regulations for the Article 4 firefighter pension funds in Illinois. The recognition as a qualified plan allows pension plans to maintain pretax status as well as to benefit from preferential tax treatment in other areas, such as duty disabilities being nontaxed federally and the ability to transfer monies from one qualified plan to another qualified plan with a tax penalty and the transferred money being taxed at the time of the transfer. In order for the pension funds to be recognized as qualified plans, the plan document or State Statutes and Pension related Administrative Code would need to incorporate federal tax law changes as they are adopted, which the plan document for Illinois Article 4 funds has not done. Additional language regarding three topics are required: 1) Rule on Rollovers; 2) Rule on Required Distributions; and 3) Rule on 415 Limitations.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis  
Senior Staff Attorney

Susan Anders  
Rules Unit

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Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

or

Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor  
Springfield, Illinois 62767-0001

217/782-2867

217/785-8220

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Municipal firefighter pension funds established under Article 4 of the Illinois Pension Code [40 ILCS 5/Art. 4].
- B) Reporting, bookkeeping or other procedures required for compliance: Please review all provisions of this Part.
- C) Types of professional skills necessary for compliance: Administrative

14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER aaa: PENSIONS

## PART 4445

## IRS QUALIFICATION STATUS FOR ARTICLE 4 FIREFIGHTER PENSION FUNDS

## SUBPART A: GENERAL PROVISIONS

Section	
4445.10	Purpose
4445.20	Applicability
4445.30	Definitions

## SUBPART B: RULE ON ROLLOVERS

Section	
4445.40	General Rule
4445.50	Eligible Rollover Distribution
4445.60	Eligible Retirement Plan
4445.70	Distributee
4445.80	Direct Rollover

## SUBPART C: RULE ON REQUIRED DISTRIBUTIONS

Section	
4445.90	General Rule
4445.100	Minimum Required Distributions
4445.110	Incidental Benefit Rule

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4445.270	Repayments of Cashouts
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## SUBPART E: RULE ON GENERAL COMPLIANCE

## Section

4445.290	Compliance with Internal Revenue Code
4445.300	Plan Termination
4445.310	Vesting and Forfeitures

AUTHORITY: Implementing Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103].

SOURCE: Adopted at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 4445.10 Purpose**

This Part sets forth the procedural requirements for the submission of the annual compliance fee by pension funds to the Department of Insurance as required by Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112].

**Section 4445.20 Applicability**

This Part applies to every Article 4 firefighter pension fund that is required to file an annual statement with the Department of Insurance pursuant to Section 1A-109 of the Illinois Pension Code [40 ILCS 5/1A-109].

**Section 4445.30 Definitions**

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Annual Benefit means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC section 415(n)) and to rollover contributions (as defined in IRC section 415(b)(2)(A)).

Benefit Attributable means a benefit determined in accordance with Treasury Regulations (see 26 CFR 1.415(b)(2)(A)).

Department means the Illinois Department of Insurance.

Internal Revenue Code or IRC means 26 USC.

Member means participant in a firefighter pension fund under Article 4 of the Illinois Pension Code [40 ILCS 5].

Nonqualified Service Credit means permissive service credit other than that allowed with respect to:

service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in IRC section 415(k)(3));

service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

service as an employee of an association of employees who are described in the first indented paragraph of this definition; or

military service (other than qualified military service under IRC section 414(u)) recognized by the plan.

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Non-spousal Beneficiary means minor children, disabled children or dependent parents receiving survivor benefits.

Pension Fund means any public pension fund established under Article 4 of the Illinois Pension Code [40 ILCS 5/Art. 4].

Permissive Service Credit means service credit:

recognized by the plan for purposes of calculating a member's benefit under the plan;

that the member has not received under the plan; and

that the member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.

Public Pension Division means the Public Employee Pension Division of the Department of Insurance.

Treasury Regulation means 26 CFR.

## SUBPART B: RULE ON ROLLOVERS

**Section 4445.40 General Rule**

Beginning January 1, 1993, pursuant to 40 ILCS 5/1-106(b), a pension fund may, and to the extent required by federal law shall, at the request of any person entitled to receive an eligible rollover distribution from the pension fund, pay any portion of that eligible rollover distribution directly to an eligible retirement plan designated in writing by the person.

**Section 4445.50 Eligible Rollover Distribution**

- a) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
  - 1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life

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expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

- 2) any distribution to the extent that distribution is required under IRC section 401(a)(9);
- 3) the portion of any distribution that is not includible in gross income; and
- 4) any other distribution that is reasonably expected to total less than \$200 during the year.

b) Effective:

- 1) January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, that portion may be transferred only:
  - A) to an individual retirement account or annuity described in IRC section 408(a) or (b);
  - B) to a qualified defined contribution plan described in IRC section 401(a); or
  - C) to a qualified plan described in IRC section 403(a); or

2) on or after January 1, 2007:

- A) to a qualified defined benefit plan described in IRC section 401(a); or
- B) to an annuity contract described in IRC section 403(b).

c) The provisions of subsection (b) apply only if the account, annuity or plan agrees to separately account for amounts transferred (and earnings on that amount), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible.

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- d) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse.

**Section 4445.60 Eligible Retirement Plan**

An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

- a) an individual retirement account described in IRC section 408(a);
- b) an individual retirement annuity described in IRC section 408(b);
- c) an annuity plan described in IRC section 403(a);
- d) a qualified trust described in IRC section 401(a);
- e) effective January 1, 2002, an annuity contract described in IRC section 403(b);
- f) effective January 1, 2002, a plan eligible under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from a plan under this Part; or
- g) effective January 1, 2009, to the extent required by federal law and permitted under a retirement or pension system subject to this Part, a Roth IRA described in IRC section 408A.

**Section 4445.70 Distributee**

A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse. Effective January 1, 2008, to the extent permitted under a pension plan subject to this Part, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by IRC section 401(a)(9)(E). However, a nonspouse beneficiary may roll over the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

**Section 4445.80 Direct Rollover**

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A direct rollover is a payment by the pension plan to the eligible retirement plan specified by the distributee.

## SUBPART C: RULE ON REQUIRED DISTRIBUTIONS

**Section 4445.90 General Rule**

Notwithstanding any other provision to the contrary, and pursuant to 40 ILCS 5/1-116.1, distributions from a pension fund shall conform with a good faith interpretation of IRC section 401(a)(9) and the regulations under that section (26 CFR 1.401(a)(9)) as applicable to a governmental plan within the meaning of IRC section 414(d).

**Section 4445.100 Minimum Required Distributions**

Effective on and after January 1, 2003, each pension fund shall be subject to the following provisions:

- a) Benefit payments must begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the plan member reaches 70½ years of age or April 1 of the calendar year following the calendar year in which the plan member terminates employment. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by this Section.
- b) The plan member's entire interest must be distributed over the plan member's life or the lives of the plan member and a designated beneficiary or beneficiaries, or over a period not extending beyond the life expectancy of the plan member or of the plan member and a designated beneficiary. Death benefits must be distributed in accordance with IRC section 401(a)(9), including the incidental death benefit requirement in IRC section 401(a)(9)(G), and the regulations implementing that Section.
- c) The life expectancy of a plan member, the plan member's spouse or the plan member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

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- d) If a plan member dies after the required distribution of benefits has begun, the remaining portion of the plan member's interest must be distributed at least as rapidly as under the method of distribution before the plan member's death and no longer than the remaining period over which distributions commenced.
- e) If a plan member dies before required distribution of the plan member's benefits has begun, the plan member's entire interest must be either:
  - 1) distributed (in accordance with federal regulations (26 CFR 1.401(a)(9))) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the plan member's death; or
  - 2) distributed by December 31 of the calendar year containing the fifth anniversary of the plan member's death.

**Section 4445.110 Incidental Benefit Rule**

- a) The amount of survivor benefits paid to a plan member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.
- b) The death and disability benefits provided by a plan are limited by the incidental benefit rule set forth in IRC section 401(a)(9)(G) and 26 CFR 1.401-1(b)(1)(i).

## SUBPART D: RULE ON 415 LIMITATIONS

**Section 4445.120 Basic 415 Limitations**

Notwithstanding any other provisions to the contrary, and pursuant to 40 ILCS 5/1-116, the member contributions made to, and retirement benefits paid from, a pension fund shall be limited to such extent as may be necessary to conform to the requirements of Section 415 of the Internal Revenue Code of 1986 (26 USC 415), for a qualified pension plan.

**Section 4445.130 Limitation Year**

For purposes of this Part, pursuant to IRC section 415, the limitation year for a Firefighters' Pension Fund is the calendar year.

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**Section 4445.140 Participation in Other Qualified Plans: Aggregation of Limits**

- a) The limit established by IRC section 415(b), with respect to any member who at any time has been a member of any other defined benefit plan as defined in IRC section 414(j), that was maintained by the member's same employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one plan.
- b) The limit established by IRC section 415(c), with respect to any member who at any time has been a member of any other defined contribution plan, as defined in IRC section 414(i), that was maintained by the member's same employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable to one plan.

**Section 4445.150 Basic 415(b) Limitation**

Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in IRC section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in IRC section 415(b)(1)(A), subject to the applicable adjustments in IRC section 415(b), and subject to any additional limits that may be specified in this Section. In no event shall a member's annual benefit payable in any limitation year from a pension fund be greater than the limit applicable at the pension benefit starting date, as increased in subsequent years pursuant to IRC section 415(d) and related Treasury Regulations (26 CFR 1.415(d)).

**Section 4445.160 Definition of Annual Benefit**

For purposes of IRC section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to IRC section 415(n)) and to rollover contributions (as defined in IRC section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations (26 CFR 1.415(b)(2)(A)).

**Section 4445.170 Adjustments to Basic 415(b) Limitation for Form of Benefit**

- a) If the benefit under the pension fund is other than the form specified in Section 4445.160, then the benefit shall be adjusted so that it is the equivalent of the

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annual benefit, using factors prescribed in Treasury Regulations (26 CFR 1.415(b)).

- b) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subsection (a) is applied by either reducing the IRC section 415(b) limit applicable at the pension benefit starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in 26 CFR 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:
- 1) For a benefit paid in a form to which IRC section 417(e)(3) does not apply (a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced 415(b) limit applicable at the annuity starting date that is the "lesser of", when adjusted in accordance with the following assumptions):
    - A) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or
    - B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in IRC section 417(e)(3)(B) (see Notice 2008-85, published by the Internal Revenue Service on September 29, 2008); or
  - 2) For a benefit paid in a form to which IRC section 417(e)(3) applies (a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced 415(b) limit applicable at the annuity starting date that is the "least of", when adjusted in accordance with the following assumptions):
    - A) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using the

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interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

- B) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85); or
- C) The annual amount of the straight life annuity commencing at the pension benefit starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement and, on and after January 1, 2007, using the rate then in effect for the first day of the plan year, with a one-year stabilization period)) and the applicable mortality rate for the distribution under IRC section 417(e)(3)(B) (see IRS Notice 2008-85), divided by 1.05.

**Section 4445.180 Benefits Not Taken into Account for 415(b) Limit**

For purposes of this Section, the following benefits shall not be taken into account in applying these limits:

- a) Any ancillary benefit that is not directly related to retirement income benefits;
- b) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
- c) Any other benefit not required under IRC section 415(b)(2) and related Treasury Regulations (26 CFR 1.415(b)) to be taken into account for purposes of the limitation of IRC section 415(b)(1).

**Section 4445.190 Other Adjustments in 415(b) Limitation**

- a) In the event the member's retirement benefits become payable before age 62, the limit prescribed by this Subpart shall be reduced in accordance with regulations

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issued by the Secretary of the Treasury pursuant to the provisions of IRC section 415(b), so that the limit (as so reduced) equals an annual straight life benefit (when the retirement income benefit begins) equivalent to a \$160,000 (as adjusted) annual benefit beginning at age 62.

- b) In the event the member's benefit is based on at least 15 years of service as a full-time employee of any fire department or on 15 years of military service, the adjustments provided for in subsection (a) shall not apply.
- c) The reductions provided for in subsection (a) shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

**Section 4445.200 Less than Ten Years of Service Adjustment for 415(b) Limitations**

The maximum retirement benefits payable to any member who has completed less than 10 years of service shall be the amount determined under Section 4445.150 multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is 10. The reduction provided by this Section cannot reduce the maximum benefit below 10%. The reduction provided by this Section shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

**Section 4440.210 \$10,000 Limit**

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the IRC section 415 limit if the benefits payable, with respect to the member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year, and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

**Section 4445.220 Effect of COLA without a Lump Sum Component on 415(b) Testing**

Effective on and after January 1, 2003, for purposes of applying the IRC section 415(b) limit to a member with no lump sum benefit, the following will apply:

- a) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;

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- b) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until the benefit plus the accumulated increases are less than the 415(b) limit;
- c) in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the IRC section 415(b)(1)(A) dollar limit under IRC section 415(d), and the related Treasury Regulations (26 CFR 1.415(b)).

**Section 4445.230 Effect of COLA with a Lump Sum Component on 415(b) Testing**

On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by IRC section 415(b) and applicable Treasury Regulations (26 CFR 1.415(b)).

**Section 4445.240 415(c) Limit**

After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to IRC section 415(d)) or 100% of the member's compensation.

- a) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
- b) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation, where applicable, will be compensation actually paid or made available during a limitation year, except as noted in subsection (c) and as permitted by 26 CFR 1.415(c)-2; however, member contributions picked up under IRC section 414(h) shall not be treated as compensation.
- c) Unless another definition of compensation that is permitted by 26 CFR 1.415(c)-2 is specified by the plan, compensation will be defined as wages within the meaning of IRC section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC sections 6041(d), 6051(a)(3) and 6052

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and will be determined without regard to any rules under IRC section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC section 3401(a)(2)).

- 1) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of IRC section 132(f)(4).
- 2) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
  - A) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or
  - B) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.
- 3) Back pay, within the meaning of 26 CFR 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this subsection (c).

**Section 4445.250 Service Purchases under Section 415(n)**

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- a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of IRC section 415(n) will be treated as met only if:
  - 1) the requirements of IRC section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of IRC section 415(b); or
  - 2) the requirements of IRC section 415(b) are met, determined by treating all such contributions as annual additions for purposes of IRC section 415(c).
- b) For purposes of applying this Section, a pension fund will not fail to meet the reduced limit under IRC section 415(b)(2)(C) solely by reason of this Section and will not fail to meet the percentage limitation under IRC section 415(c)(1)(B) solely by reason of this Section.
- c) Permissive Service Credit
  - 1) For purposes of this Section, the term "permissive service credit" means service credit:
    - A) recognized by the plan for purposes of calculating a member's benefit under the plan;
    - B) that the member has not received under the plan; and
    - C) that the member may receive only by making a voluntary additional contribution, in an amount determined under the plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.
  - 2) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term may include service credit for periods for which there is no performance of service and, notwithstanding subsection (c)(1)(B), may include service credited in order to provide an increased benefit for service credit a member is receiving under the plan.

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- d) A pension fund will fail to meet the requirements of this Section if:
- 1) more than 5 years of nonqualified service credit are taken into account for purposes of this Section; or
  - 2) any nonqualified service credit is taken into account under this Section before the member has at least five years of participation under the plan.
- e) For purposes of subsection (d), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to:
- 1) service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in IRC section 415(k)(3));
  - 2) service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in IRC section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
  - 3) service as an employee of an association of employees who are described in subsection (e)(1); or
  - 4) military service (other than qualified military service under IRC section 414(u)) recognized by the plan.
- f) In the case of service described in subsections (e)(1) through (3), the service will be nonqualified service if recognition of the service would cause a member to receive a retirement benefit for the same service under more than one plan.

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- g) In the case of a trustee-to-trustee transfer after December 31, 2001 to which IRC section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):
- 1) the limitations of subsection (d) will not apply in determining whether the transfer is for the purchase of permissive service credit; and
  - 2) the distribution rules applicable under federal law to the plan will apply to the transferred amounts and any benefits attributable to those amounts.
- h) For an eligible participant, the limitation of IRC section 415(c)(1) shall not be applied to reduce the amount of permissive service credit that may be purchased to an amount less than the amount allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this subsection (h), an eligible participant is an individual who first became a participant in the plan before January 1, 1998.

**Section 4445.260 Modification of Contributions for 415(c) and 415(n) Purposes**

Notwithstanding any other provision of law to the contrary, a pension fund may modify a request by a member to make a contribution under this Part if the amount of the contribution would exceed the limits provided in IRC section 415 by using the following methods:

- a) If the law requires a lump sum payment for the purchase of service credit, a pension fund may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under IRC section 415(c) or 415(n).
- b) If payment pursuant to this Section will not avoid a contribution in excess of the limits imposed by IRC section 415(c) or 415(n), a pension fund may either reduce the member's contribution to an amount within the limits of those IRC sections or refuse the member's contribution.

**Section 4445.270 Repayments of Cashouts**

Any repayment of contributions (including interest) to a pension fund with respect to an amount previously refunded upon a forfeiture of service credit under a pension fund shall not be taken into account for purposes of IRC section 415, in accordance with applicable Treasury Regulations (26 CFR 1.415).

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**Section 4445.280 Reduction of Benefits Priority**

- a) Reduction of benefits and/or contributions to all plans, when required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated.
- b) Except as otherwise provided in subsection (c), the reduction shall be made:
  - 1) first, with respect to the plan in which the member most recently accrued benefits and thereafter in the priority determined by the plan and the plan administrator of the other plans; then
  - 2) by reducing the member's defined contribution component benefit under any defined benefit plans; then
  - 3) by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, with the reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in the priority established by the plan and the plan administrator for the other plans.
- c) However, the necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering the member.

## SUBPART E: RULE ON GENERAL COMPLIANCE

**Section 4445.290 Compliance with Internal Revenue Code**

Each of the plans established under Article 4 of the Pension Code is intended to be a qualified defined benefit plan under IRC sections 401(a) and 414(d).

**Section 4445.300 Plan Termination**

Upon plan termination, a member's interest in a pension fund will be nonforfeitable.

**Section 4445.310 Vesting and Forfeitures**

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- c) A plan member shall be 100% vested in his or her accumulated contributions at all times.
- d) In conformity with IRC section 401(a)(8), any forfeitures of benefits by members or former members of the plan will not be used to pay benefit increases. However, forfeitures shall be used to reduce employer contributions.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Podiatric Medical Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1360
- 3) Section Number: 1360.70                      Adopted Action:  
Amendment
- 4) Statutory Authority: Podiatric Medical Practice Act of 1987 [225 ILCS 100]
- 5) Effective Date of Amendment: September 28, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: July 6, 2009; 33 Ill. Reg. 9225
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Section 1360.70 is being amended as a result of Public Act 95-235, which increased the number of continuing education hours required for renewal from 25 to 50 hours per year (100 hrs. total for the 2-year prerenewal period).
- 16) Information and questions regarding this adopted amendment shall be directed to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

320 West Washington, 3rd Floor  
Springfield, Illinois 62786

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1360  
PODIATRIC MEDICAL PRACTICE ACT OF 1987

## Section

1360.10	Statutory Authority (Repealed)
1360.20	Approved Colleges of Podiatry
1360.30	Application for Examination
1360.40	Examination
1360.45	Application for Licensure on the Basis of Examination
1360.50	Endorsement
1360.55	Renewals
1360.60	Restoration
1360.65	Temporary Licenses
1360.70	Continuing Education
1360.75	Visiting Professor Permits
1360.80	Definition of "Human Foot" (Repealed)
1360.85	Advertising
1360.86	Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions
1360.90	Granting Variances
1360.95	Dishonorable, Unprofessional and Unethical Conduct Standards
1360.APPENDIX A	Curriculum Requirements (Repealed)
1360.APPENDIX B	Clinical Training Requirements (Repealed)

AUTHORITY: Implementing the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 4 Ill. Reg. 50, p. 58, effective December 3, 1980; codified at 5 Ill. Reg. 11053; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 915, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 8402, effective July 2, 1982; amended at 7 Ill. Reg. 7668, effective June 15, 1983; amended at 9 Ill. Reg. 5377, effective April 4, 1985; transferred from Chapter I, 68 Ill. Adm. Code 360 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1360 (Department of Professional Regulation) pursuant to P.A.

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85-225, effective January 1, 1988, at 12 Ill. Reg. 2962; amended at 13 Ill. Reg. 4234, effective March 21, 1989; amended at 14 Ill. Reg. 701, effective December 28, 1989; amended at 16 Ill. Reg. 13281, effective August 18, 1992; amended at 18 Ill. Reg. 16433, effective October 21, 1994; amended at 20 Ill. Reg. 10692, effective July 26, 1996; amended at 23 Ill. Reg. 12681, effective October 5, 1999; amended at 30 Ill. Reg. 4704, effective March 1, 2006; amended at 33 Ill. Reg. 14111, effective September 28, 2009.

**Section 1360.70 Continuing Education**

- a) Continuing Education Hour Requirements
  - 1) Every renewal applicant who applies for renewal of a license as a podiatric physician must complete [10050](#) hours of continuing education (CE) relevant to the practice of podiatric medicine.
  - 2) A prerenewal period is the 24 months preceding January 31 of each odd-numbered year.
  - 3) A renewal applicant is not required to comply with CE requirements for the first renewal.
  - 4) Podiatric physicians licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education
  - 1) All continuing education hours must be earned by verified attendance at or participation in a program or course sponsored, approved or given by a sponsor approved by the Council on Podiatric Medical Education; sponsored by the Illinois Podiatric Medical Association; or which is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), (4), (5), and (6).
  - 2) A maximum of 18 hours of credit per prerenewal period may be earned through postgraduate training programs (i.e., extern, residency, or fellowship programs) approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as provided for in Section 5(G) of the Act.

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- 3) A maximum of 18 hours per prerenewal period may be earned for verified teaching in an approved podiatric medical college which meets the standards set forth in Section 1360.20 and/or as an instructor of continuing education through an approved sponsor. One hour of credit will be granted for actual presentation, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course, and will only be allowed for additional study or research.
- 4) Up to 15 total credit hours per prerenewal period may be claimed for papers, publications, books, presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with Podiatric Medicine which is made available to health professionals may be claimed as 5 hours of credit. A presentation or exhibit must be before a professional audience of podiatrists or other health professionals. Five credit hours may be claimed for only the first time the information is published or presented.
- 5) Up to 15 total credit hours per prerenewal period may be earned through nonsupervised individual activities in the following areas:
  - A) Self-Instruction – Up to 3 hours of credit may be claimed for the use of audio-visual materials, programmed education materials, electronic teaching devices and the individual reading of podiatric medical literature.
  - B) Patient Care Review – Up to 3 hours may be claimed for time spent in programs concerned with the review and evaluation of patient care. This includes such activities as peer review.
  - C) Self-assessment – Up to 3 hours of credit may be claimed for time spent in self-assessment programs. These would include, for example, quizzes completed by the podiatrist after reading professional publications of a scientific or patient-care oriented nature, or completion of aptitude questionnaires provided by various organizations and societies.
  - D) Specialty Board or Specialty Organization Preparation – Up to 6

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hours may be claimed for nonsupervised individual activities carried out in preparation for an examination or to satisfy other requirements for membership in a specialty organization. No additional credit may be claimed for taking and/or passing an examination given by the board or organization.

- 6) Up to 10 hours of credit per prerenewal period may be claimed for verified formal learning experiences sponsored by hospitals, agencies, organizations or other institutions which are not approved continuing education sponsors, in subjects that facilitate the podiatrist's performance, such as courses in computerized patient-record systems, practice management, risk management or training – including advanced degree programs in education, health administration, and similar subjects.
- c) Approved CE Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean the Council on Podiatric Medical Education and its approved sponsors, the Illinois Podiatric Medical Association, or a person, firm, association, corporation, or any other group which has been approved and authorized by the Board and validated by the Illinois Podiatric Medical Association Continuing Education Committee to coordinate and present continuing education courses or programs.
  - 2) A sponsor shall submit the fee set forth in Section 18(a)(10) of the Act, along with a sponsor application that certifies:
    - A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section;
    - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certificate of attendance as set forth in subsection (d);
    - C) That, upon request by the Division, the sponsor will submit such evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Such evidence shall be required when the Division has reason to believe

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that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

- 3) All courses and programs shall:
  - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of podiatric medicine;
  - B) Provide experiences which contain scientific integrity, and subject matter and course material relevant to podiatric medicine;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) All programs given by approved sponsors shall be open to all licensed podiatric physicians and not be limited to members of a single organization or group.
- 5) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.
- 6) Each sponsor shall reapply by January 31 of each year. The sponsor shall submit to the Division, along with the completed sponsor application and the fee set forth in Section 18(a)(10) of the Act, a list of courses and programs offered within the last 12 months, which includes a brief description, location, date and time of the course.
- 7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in an approved program or course with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

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- A) The name and address of the sponsor;
  - B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor.
- 8) The sponsor shall maintain attendance records for not less than five years.
  - 9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
  - 10) Upon the failure of any sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of such sponsor's CE activities until such time as the Division receives assurances of compliance with this Section.
  - 11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved continuing education program at any time to ensure compliance with the requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
  - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such additional evidence will be required in the context of the Division's random audit.

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- 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified in writing and may request an interview with the Board.
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(5) of this Section. Applicants may seek individual program approval prior to the participation in the course or program. All individual program approval requests shall be submitted 90 days prior to the expiration date of the license.
  - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$50 per credit hour late fee not to exceed \$300. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (b) of this Section.
- f) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section 18(a)(3) of the Act, a statement setting forth the facts concerning such non-compliance, and request for waiver of the CE requirements on the basis of such facts. The request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

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- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
  - A) Full time service in the Armed Forces of the United States of America during a substantial part of such period;
  - B) An incapacitating illness documented by a statement from a currently licensed physician;
  - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
  - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of a license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final Division decision on the application has been made.

(Source: Amended at 33 Ill. Reg. 14111, effective September 28, 2009)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
121.94	Amendment
121.96	Amendment
121.150	Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13]
- 5) Effective date of amendments: September 22, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of proposal published in the Illinois Register: March 13, 2009; 33 Ill. Reg. 4062
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No substantive changes were made to the text of the proposed rulemaking.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
121.10	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.63	Amendment	33 Ill. Reg. 4537; March 27, 2009

## DEPARTMENT OF HUMAN SERVICES

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121.120	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.125	Amendment	33 Ill. Reg. 4537; March 27, 2009
121.57	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.58	Amendment	33 Ill. Reg. 5248; April 10, 2009
121.3	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.7	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.8	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.41	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.55	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.57	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.60	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.61	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.73	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.74	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.76	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.130	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.140	Amendment	33 Ill. Reg. 5710; April 17, 2009
121.26	Amendment	33 Ill. Reg. 6009; June 5, 2009
121.136	New Section	33 Ill. Reg. 7283; June 5, 2009
121.8	Amendment	33 Ill. Reg. 11198; July 31, 2009
121.30	Amendment	33 Ill. Reg. 11772; August 14, 2009
121.52	Amendment	33 Ill. Reg. 11772; August 14, 2009
121.55	Amendment	33 Ill. Reg. 11772; August 14, 2009
121.140	Amendment	33 Ill. Reg. 11772; August 14, 2009

- 15) Summary and purpose of Rulemaking: This rulemaking is the result of Title IV of federal Public Law 110-246, the Food, Conservation, and Energy Act of 2008 (FCEA) enacted June 18, 2008. FCEA contains various provisions that affect food stamp eligibility and benefits. These regulations de-obligate food stamp coupons as legal tender and prohibit States from issuing coupons as of June 18, 2008.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:  
 Tracie Drew Chief  
 Bureau of Administrative Rules and Procedures 217/785-9772  
 Department of Human Services  
 100 South Grand Avenue East, Harris Building, 3<sup>rd</sup> Floor  
 Springfield, Illinois 62762

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- 17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121  
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.8 Express Stamps Application Project
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

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Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

## SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Food Stamp Benefit Amount

## SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

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## NOTICE OF ADOPTED AMENDMENTS

## SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

## Section

- 121.80 Fraud Disqualification (Renumbered)
- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or [SNAP Food Stamp](#) Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses [for SNAP Benefits](#) ~~For Food Coupons~~
- 121.97 Supplemental Payments
- 121.98 Client Training Brochure for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.108 Transitional Food Stamp (TFS) Benefits
- 121.120 Redetermination of Eligibility
- 121.125 Redetermination of Earned Income Households
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

## SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

## Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

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## SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

## Section

121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

## SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

## Section

121.220	Work Requirement Components (Repealed)
121.221	Meeting the Work Requirement with the Earnfare Component (Repealed)

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- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with

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no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991;

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emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective

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January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006; amended at 31 Ill. Reg. 6991, effective April 30, 2007; amended at 31 Ill. Reg. 10482, effective July 9, 2007; amended at 31 Ill. Reg. 11318, effective July 23, 2007; preemptory amendment at 31 Ill. Reg. 14372, effective October 1, 2007; amended at 32 Ill. Reg. 2813, effective February 7, 2008; amended at 32 Ill. Reg. 4380, effective March 12, 2008; amended at 32 Ill. Reg. 4813, effective March 18, 2008; amended at 32 Ill. Reg. 9621, effective June 23, 2008; preemptory amendment at 32 Ill. Reg. 16905, effective October 1, 2008; preemptory amendment to Sections 121.94(c), 121.96(d)(2) and 121.150(b) suspended at 32 Ill. Reg. 18908, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 200, effective February 5, 2009; preemptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 3514, effective February 5, 2009, for a maximum of 150 days; preemptory amendment at 32 Ill. Reg. 18092, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4187, effective February 24, 2009, for a maximum of 150 days; preemptory amendment at 33 Ill. Reg. 5537, effective April 1, 2009; emergency

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amendment at 33 Ill. Reg. 11322, effective July 20, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 14121, effective September 22, 2009.

## SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

**Section 121.94 Replacement of the EBT Card or SNAPFood Stamp Benefits**

- a) Replacement of the EBT Card
  - 1) The EBT card (benefit access device) will be replaced if lost, stolen or damaged.
  - 2) The loss, theft or damage of the EBT card must be immediately reported to the EBT contractor.
  - 3) The client shall contact the Client Help Desk toll-free at (800)678-5465, by TTY at (877)765-3459 or via the internet at <http://www.Link.Illinois.gov> for replacement of the EBT card and selection of a Personal Identification Number (PIN). A replacement card may be issued by the local office with administrative approval.
  - 4) Administrative remedies, as described in subsection (c) of this Section, may be imposed following the loss, theft or damage of the EBT card or the loss of SNAPfood stamp benefits.
- b) For households receiving SNAPfood stamp benefits via the EBT system, lost benefits resulting from the loss or theft of the EBT card and PIN will not be replaced due to the client's mismanagement or presumed fraud, collusion or cooperation in fraud.
- c) ~~For households receiving food stamp benefits via food stamp coupons not through the EBT system, the following rules will apply:~~
  - ~~1) When a household reports the non-receipt of coupons issued through the mail, the Department shall authorize a replacement issuance only if the coupons were validly issued, the household has not been issued more than one replacement in the previous five months and if sufficient time, up to five post office working days, has elapsed for delivery. The replacement coupons will be sent to the local office address and thereafter, for the next~~

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~~two months following the replacement, each month's regular issuance of coupons will be sent to the local office address.~~

- ~~2) Replacement coupons shall not be issued when a participant claims that the envelope received in the mail contained less than the authorized allotment unless the coupon loss was due to damage in the mail before delivery or the Direct Mail Issuance Center inventory is incorrect. Additionally, replacement coupons shall not be issued for coupons that are received but subsequently are lost or misplaced.~~
- ~~3) If a household requests replacement of food stamp coupons which were received by the household but which were improperly manufactured or were subsequently damaged or mutilated, the Section 121.94(e)(3) continued Department shall replace the coupons in an amount equal to the value of the improperly manufactured or mutilated coupons. A coupon cannot be replaced if less than three fifths of the coupon is presented by the household.~~
- ~~4) If a household requests replacement of food stamp coupons which were received but subsequently destroyed in a household disaster and the request is made within ten days after the disaster, the Department shall replace the coupons in an amount not to exceed one month's worth of coupons within ten days after the date destruction was reported to the local office. The disaster must be verified. Replacement of destroyed coupons is limited to twice in a six month period.~~
- ~~5) Replacement food stamp coupons shall not be issued for coupons that are lost, misplaced or stolen.~~

⊕ Administrative Remedies

The Department may employ any of the administrative remedies listed in this subsection (~~c~~) to deter multiple claims of benefit loss or multiple EBT card replacements, subject to notice to and appeal by the client. Which remedy would be applied will be determined by such elements as the type of situation that gives rise to the need for the remedy and the effectiveness of previously utilized remedies.

- 1) Charge for Replacement Card or Cards – The Department may assess a fee for replacement of the EBT card. Such fees may increase for subsequent

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replacement cards.

- 2) Telephone Approval – The Department may require the client to obtain time and amount-limited telephonic approval for use of the EBT card. The client would be required to place a call to the EBT contractor and positively identify himself or herself. The preauthorization would be time-limited and for a specific, preauthorized amount. The client would be able to use the card for a period of two hours or for some other period designated by the Department. The amount of the transaction could not exceed the preauthorized amount and must be accomplished electronically (manual authorization or voucher processing). Key-entered transactions or exception processing may not be used.
- 3) Transaction Withdrawals – To assist a client in managing his or her funds or to reduce the potential for fraud, the Department may limit the amount of benefits that may be withdrawn or used per transaction per day. The amount would not exceed \$50.00 and may be lowered, as determined by the Department to be necessary under the individual circumstances.
- 4) Use of Specific POS Terminals – The Department may notify a client that it has restricted benefit access points available to the client. The client may be restricted to accessing benefits at one or two locations, designated by the Department. The merchant or retailer would have to obtain telephone authorization of the transaction. Use of exception processing or key-entered transactions would not be allowed. This determination can only be imposed for a period not to exceed 24 months and is designed to address situations of mismanagement, fraud, multiple replacement requests and intentional program violations.
- 5) Use of Protective or Alternate Payee – Repeated loss of the EBT card and PIN is a basis for a determination of client mismanagement and authorization of a Protective Payment Plan (PPP).

| de) Other Remedies

The Department may use other remedies to reduce future claims and to address fraud, abuse, collusion or intentional program violations, as warranted by the individual case circumstances. Those remedies may include, but shall not be limited to:

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- 1) disqualification;
- 2) penalties, fines and/or imprisonment consistent with federal and State law and regulations; and
- 3) referrals to federal law enforcement authorities, when appropriate.

(Source: Amended at 33 Ill. Reg. 14121, effective September 22, 2009)

**Section 121.96 Uses for SNAP Benefits For Food Coupons**

- a) SNAP benefits~~Food stamps~~ shall be used to purchase eligible food from food retailers and/or wholesalers authorized by the United States Department of Agriculture (USDA) to accept SNAP benefits~~food stamps~~.
- b) SNAP benefits~~Food stamps~~ may be used to purchase seeds and plants for use in gardens to produce food for personal consumption.
- c) SNAP benefits~~Food stamps~~ may not be used to:
  - 1) purchase alcoholic beverages and tobacco
  - 2) pay back grocery bills (incurred prior to receipt of SNAP benefits~~food stamps~~.)
  - 3) purchase hot foods or hot food products which can be eaten immediately and that are sold in retail food stores.
- d) ~~4)~~Households that do not reside in permanent dwellings or have no fixed mailing address may use their SNAP benefits~~food stamps~~ to purchase meals prepared for and served by USDA authorized public or private nonprofit establishments which feed such individuals and public or private nonprofit shelters which provide temporary residence (except that such establishments and shelters may only request voluntary use of SNAP benefits~~food stamps~~ by such individuals and may not request such households to pay more than the average cost of the food contained in a meal served by the establishment or shelter. "Average cost" refers to direct costs, through purchases of food used in preparation of meals. For purposes of this rule, "average cost" shall be determined by averaging costs over a period of one calendar month.).

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- 2) ~~However, in the case of homeless food stamp households, neither cash change no credit slips shall be returned for coupons used for the purchase of prepared meals from authorized establishments and shelters. Such establishments and shelters may use uncancelled and unmarked \$1.00 coupons which were previously accepted for meals served to food stamp recipients when change is required for \$5.00 and \$10.00 coupons.~~

AGENCY NOTE: In accordance with 7 CFR 272.9, the Department shall approve public and private nonprofit establishments and shelters serving the homeless if the establishment shelter serves meals to the homeless. The Food and Nutrition Service of USDA shall authorize as retail food stores, those establishments and shelters which apply and qualify for authorization to accept [SNAP benefits](#)~~food stamps~~ from homeless recipients in accordance with 7 CFR 278.1 and 278.2.

(Source: Amended at 33 Ill. Reg. 14121, effective September 22, 2009)

## SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

**Section 121.150 Definition of Intentional Violation of the Program**

Intentional violation of [SNAP](#)~~the Food Stamp program~~ occurs when an individual intentionally:

- a) Makes a false or misleading statement.
- b) Misrepresents, conceals or ~~withholds~~~~withholds~~ facts, or ~~commits~~~~Commits~~ any act that constitutes a violation of the Food ~~and Nutrition Act of 2008~~~~Stamp Act~~, [SNAP](#)~~the Food Stamp program~~ regulations, or any ~~State~~~~state~~ statute regarding the use, presentation, transfer, acquisition, receipt, or possession of [SNAP](#)~~Food Stamp benefit~~~~coupons or ATP's~~.

(Source: Amended at 33 Ill. Reg. 14121, effective September 22, 2009)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

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- 1) Heading of the Part: Administrative Hearings
- 2) Code Citation: 32 Ill. Adm. Code 200
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
200.10	Amendment
200.20	Amendment
200.30	Amendment
200.40	Amendment
200.50	Amendment
200.60	Amendment
200.70	Amendment
200.90	Amendment
200.100	Amendment
200.110	Amendment
200.130	Amendment
200.140	Amendment
200.150	Amendment
200.160	Amendment
200.170	Amendment
200.180	Amendment
200.190	Amendment
200.210	Amendment
200.220	Amendment
200.230	Amendment
- 4) Statutory Authority: Authorized by Section 18 of the Radiation Protection Act of 1990 [420 ILCS 40/18]
- 5) Effective Date of Amendments: September 28, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection

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- 9) Notice of Proposal Published in the Illinois Register: 33 Ill. Reg. 6592; May 15, 2009
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
1. In Section 200.40(a), strike "carbon or copying machine or" and "other" in the second sentence.
  2. In Section 200.70 (c) and (d), before the period, add "subject to the Administrative Review Law".
  3. In Section 200.230(a), strike "statutory" and add "statute".
- 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? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Agency is adopting this rulemaking to: (1) change all references to "Department" or the "Illinois Department of Nuclear Safety" to "Agency" or "Illinois Emergency Management Agency" pursuant to Executive Order #12 (2003), (2) clarify when an attorney must file an appearance, and (3) clarify the importance of the director's final decision.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Louise Michels  
Staff Attorney  
Illinois Emergency Management Agency  
1035 Outer Park Drive  
Springfield, Illinois 62704

217/785-9876

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

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## TITLE 32: ENERGY

## CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY

## SUBCHAPTER a: ADMINISTRATIVE HEARING RULES

## PART 200

## ADMINISTRATIVE HEARINGS

## Section

200.10	Scope and Nature of Rules
200.20	Appearance – Right to Counsel
200.30	Parties
200.40	Form of Papers
200.50	Notice, Service and Proof of Service
200.60	Preliminary Order and Notice of Opportunity for Hearing
200.70	Right to Hearing
200.80	Motions
200.90	Continuances
200.100	Hearing Officer
200.110	Ex Parte Consultation
200.120	Informal Conferences
200.130	Conduct of Hearing
200.140	Amendments
200.150	Burden of Proof
200.160	Witnesses at Hearings
200.170	Evidence at Hearings
200.180	Cross Examination
200.190	Official Notice
200.200	Default
200.210	Hearing Record
200.220	Hearing Officer's Report
200.230	Final Decision of the Director

**AUTHORITY:** Implementing Sections 8.2, 9 and 11 and authorized by Section 6 of the Radiation Protection Act [420 ILCS 40/8.2, 9 and 11].

**SOURCE:** Filed April 20, 1974 by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; amended at 7 Ill. Reg. 9306, effective July 22, 1983; codified at 7 Ill. Reg. 16404; amended at 10 Ill. Reg. 17200, effective September 25, 1986; amended at 26 Ill. Reg. 17739, effective December 2, 2002;

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recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 33 Ill. Reg. 14137, effective September 28, 2009.

**Section 200.10 Scope and Nature of Rules**

- a) Authority and Scope
  - 1) Authority. ~~This~~~~The rules of this~~ Part ~~is~~~~are~~ promulgated pursuant to Section 5-10(a) of the Illinois Administrative Procedure Act (IAPA) [~~5 ILCS 100/5-10~~](~~Ill. Rev. Stat. 1991, ch. 127, par. 1005-10(a)~~).
  - 2) Scope. This Part shall govern the proceedings of any adjudicatory administrative hearing of the Illinois Emergency Management Agency (Agency)~~Department of Nuclear Safety (Department)~~, except as otherwise specifically provided by statute or regulation.
- b) Communications to the Agency~~Department~~. All communications to the Agency~~Department~~ concerning administrative hearings shall be addressed to the Director at Illinois Emergency Management Agency, 2200 S. Dirksen Parkway, Springfield, Illinois 62703, unless otherwise directed.
- c) Construction of Rules~~rules~~. ~~This Part~~~~These rules~~ shall not be construed to abrogate, modify, or limit any rights, privileges, or immunities granted or protected by the Constitution or laws of the United States or the State of Illinois. In case of any conflict between this Part~~these rules~~ and the IAPA or a licensing statute, the procedures of the IAPA or licensing statute shall control.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.20 Appearance – Right to Counsel**

- a) *The Agency~~Department~~ shall allow only attorneys licensed and registered to practice in this State to appear before it in administrative hearings, except that a natural person may appear on his or her own behalf. [420 ILCS 40/18]*
- b) Each party to a proceeding before the Agency~~Department~~ shall inform the Agency~~Department~~ in writing of the name and address to which any notice or other document should be served ~~upon the party to such proceeding~~. Attorneys representing a party must enter an appearance prior to the hearing.

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- c) All persons appearing in proceedings before the ~~Agency~~Department shall conform to the standards of conduct of attorneys before the courts of the State of Illinois (~~RPC Rule 3.3~~). If a person fails to conform to these standards, and ~~the~~~~sueh~~ failure delays or disrupts the proceeding, the ~~Agency~~Department or the hearing officer shall have the authority to prohibit ~~that~~~~sueh~~ person from appearing in the proceeding.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.30 Parties**

- a) The parties to administrative hearings before the ~~Agency~~Department are the ~~Agency~~Department and the Respondent.
- b) A Respondent is a person or entity against whom a Preliminary Order and Notice of Opportunity for Hearing ~~or a denial of licensure~~ is ~~issued~~filed by the ~~Agency~~Department.
- c) Misnomer of a party is not a ground for dismissal. The name of any party may be corrected at any time.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.40 Form of Papers**

- a) Written pleadings, motions or other documents filed in any proceeding shall be typewritten. Copy shall be on one side of the paper and shall be double spaced, except that quotations may be single spaced and indented. Reproductions of any documents to be incorporated into the record may be made by ~~carbon or copying machine or~~ any ~~other~~ process that produces legible black on white copies.
- b) Written pleadings, motions or other documents filed in any proceeding shall be cut or folded to a width of 8½ inches and a length of 11½ inches and shall have inside margins of no less than one inch width.
- c) Written pleadings, motions, or other documents shall be signed in ink with the name and address of the party filing the paper; and, if represented by an attorney, the name and address of ~~the~~~~sueh~~ attorney.

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- d) Written pleadings, motions, affidavits, and other documents shall be filed ~~in~~ ~~triplicate~~ with the AgencyDepartment and one copy shall be served on each party to the proceeding.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.50 Notice, Service and Proof of Service**

- a) The hearing officer and all parties to the proceedings shall be served all pleadings, motions, notices and other documents filed by any party. Proof of such service on all parties shall be filed with the hearing officer.
- b) Any Order or Notice issued by the AgencyDepartment shall either be served personally or by registered or certified mail on the Respondent.
- c) All other pleadings and other documents shall be served personally or by first class United States mail properly addressed, with postage prepaid, to each party to the proceeding.
- d) When any party or parties have appeared by attorney, service upon the attorney shall be deemed service upon the party or parties.
- e) Proof of service of any paper shall be by certificate of attorney, affidavit or acknowledgement, or certified or registered mail ~~return~~ receipt ~~requested~~.
- f) Wherever notice or notification is indicated or required, it shall be effective upon the date of mailing to the party's business address, residence or last address on file with the AgencyDepartment.
- g) In addition to the methods provided for in this Part, a Respondent may be served in any manner permitted by law. (~~Ill. Rev. Stat. 1985, ch. 110, pars. 2-201 et seq.~~)

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.60 Preliminary Order and Notice of Opportunity for Hearing**

- a) In the event that a person has violated or is alleged to have violated the statutes, regulations or terms of licensure or accreditation, the AgencyDepartment shall

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commence administrative proceedings by the service of a Preliminary Order and Notice of Opportunity for Hearing upon the Respondent.

- b) The Preliminary Order and Notice of Opportunity for Hearing shall contain:
- 1) A statement of the legal authority and jurisdiction under which a hearing would be held;
  - 2) A reference to the ~~provisions~~ provision(s) of the ~~statute~~ statute(s), ~~regulations~~ regulation(s) or ~~term~~ term(s) of licensure or accreditation involved;
  - 3) A short and plain statement of the matters asserted, including dates, location, events, nature, extent, and duration, to advise the Respondent of the extent and nature of the alleged violations;
  - 4) A statement of the right to request a hearing and the date ~~that by which~~ a request for a hearing is to be submitted to the Agency Department, which shall be at least ~~ten~~ (10) days from the date of the Preliminary Order;
  - 5) The time, date and location when the hearing will be held, if one is requested; and
  - 6) A statement of the ~~actions~~ action(s) that will be taken by the Agency Department in the event that a hearing is not requested by the Respondent.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.70 Right to Hearing**

- a) In the event that the Respondent seeks a hearing pursuant to matters raised in a Preliminary Order issued in accordance with Section 200.60, the Respondent must submit a request for a hearing by the date specified in the Preliminary Order. In the event that a person seeks a hearing pursuant to the denial of an application for licensure or accreditation or the denial of reinstatement of licensure or accreditation by the Agency Department, the person must submit a request for a hearing within ~~thirty~~ (30) days ~~after the~~ of such denial.

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- b) This request must be in writing and must contain a brief statement of the basis upon which the ~~Agency's~~~~Department's~~ Preliminary Order or denial of licensure or accreditation is being challenged.
- c) If ~~thesueh~~ request is not submitted by the date required in accordance with subsection (a), or if ~~thesueh~~ request is submitted but later withdrawn, the ~~actions~~~~action(s)~~ proposed by the ~~Agency~~~~Department~~ in the Preliminary Order or denial of licensure or accreditation shall be a final and binding administrative determination subject to the Administrative Review Law.
- d) Upon notice from the Agency that a Respondent is required to have an attorney pursuant to 420 ILCS 40/18, the Respondent's attorney shall have 30 days to enter an appearance with the Agency. If no such appearance is filed, the hearing request will be considered withdrawn and the Preliminary Order or denial of licensure shall be a final and binding administrative determination subject to the Administrative Review Law.
- ~~ed~~) No final decision shall be made or action taken by the ~~Agency~~~~Department~~ until the Respondent has had an opportunity to request a hearing and, if requested, a hearing has been held, except that, in cases ~~in which~~~~wherein~~ there is an immediate threat to public health or safety, the ~~Agency~~~~Department~~ may take action to immediately enjoin ~~thesueh~~ threat pending a hearing. ~~TheSueh~~ hearing shall be held within ~~thirty~~ (30) days ~~after~~~~of~~ the ~~Agency's~~~~Department's~~ action [420 ILCS 40/38(a)](Ill. Rev. Stat. 1985, ch. 111½, par. 222).

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.90 Continuances**

A party shall be granted one continuance of up to ~~fourteen~~ (14) days on request or as agreed to by all parties. Any other requests for a continuance will be granted only for good cause shown. In determining good cause, factors ~~that~~~~which~~ the hearing officer may consider shall include the inability to produce a material witness or evidence, surprise, required attendance of legal counsel elsewhere, illness or death of a party or witness, and substitution of an attorney.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.100 Hearing Officer**

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- a) When a Preliminary Order and Notice of Opportunity for Hearing is issued and a hearing is requested, the Director of the ~~Agency~~Department shall designate a hearing officer to preside at the formal administrative hearing.
- b) The appointed hearing officer shall not have direct involvement with the case or have an interest in the decision to be reached. Mere familiarity with the facts shall not disqualify a hearing officer.
- c) The hearing officer shall have the duty to conduct a fair hearing, to maintain order, to ensure development of a clear and complete record, and to submit a written report to the Director for the Director's decision.
- d) In addition to other authority provided in this Part, the hearing officer shall have the authority to:
  - 1) Direct the parties to meet in an informal conference in accordance with Section 200.120;
  - 2) Administer oaths;
  - 3) Receive evidence and rule upon the admissibility of oral testimony and other evidence;
  - 4) Examine witnesses for the purpose of clarifying the record;
  - 5) Consider and rule upon motions in accordance with Section 200.80.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.110 Ex Parte Consultation**

Ex parte communications and consultation between and among parties shall be limited to that which is in accordance with the Illinois Administrative Procedure Act, ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1010-60).~~

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.130 Conduct of Hearings**

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- a) Unless closing the hearing is necessary to preserve the confidentiality of medical records, or the confidentiality of trade secrets or financial information the disclosure of which could cause competitive harm, hearings shall be open to the public, ~~as required by Section 8.2 of the Radiation Protection Act (Ill. Rev. Stat. 1985, ch. 111½, par. 218.2)~~. If matters of confidentiality are involved, the hearing officer shall have the authority to close all or a portion of the hearing to the public.
- b) The hearing officer shall direct all parties to enter their appearances on the record. All witnesses shall be sworn.
- c) The hearing officer shall inquire fully into the matters at issue and shall receive testimony of witnesses and any other evidence ~~that~~which is relevant and material to the issues presented. The following shall be the usual order of administrative hearings, unless the hearing officer decides otherwise:
- 1) presentation, argument, and disposition of preliminary motions in accordance with Section 200.80;
  - 2) presentation of opening statements;
  - 3) ~~Agency's~~Department's case in chief;
  - 4) Respondent's case in chief;
  - 5) ~~Agency's~~Department's case in rebuttal;
  - 6) Respondent's case in rebuttal;
  - 7) presentation of closing arguments, including legal arguments.†
- d) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Disposition may be made of any case by stipulation, agreed settlement, consent order or default.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.140 Amendments**

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At any time prior to the hearing or before completion of the hearing, amendments shall be allowed for good cause shown to introduce any party who ought to have been joined, to dismiss any party, or to delete, modify or add allegations or defenses. In the event of a change in parties or a substantive amendment to the allegations or defenses immediately preceding or during the hearing, any remaining party may request that the hearing be suspended. Upon ~~asuch~~ request, the hearing officer shall suspend the hearing for up to ~~fourteen~~ (14) days or as agreed to by all parties to provide an opportunity for the parties to respond to ~~thesuch~~ changes in parties or substantive amendments ~~thatwhich~~ are introduced immediately preceding or during the hearing.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.150 Burden of Proof**

- a) The burden of proof shall be on the ~~Agency, Department~~ unless the matter at issue is the denial of an application for licensure or accreditation, or an application for reinstatement of licensure or accreditation ~~thatwhich~~ has been previously revoked, suspended, or otherwise terminated. In such cases, the burden of proof shall be on the Respondent.
- b) In the case of any new matter introduced in connection with any affirmative defense, the burden of proof ~~with respect thereto~~ shall be upon the party ~~thatwhich~~ alleges ~~thesuch~~ new matter.
- c) The standard of proof with respect to all hearings conducted pursuant to this Part shall be a preponderance of the evidence.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.160 Witnesses at Hearings**

- a) The hearing officer or the official reporter may administer oaths to witnesses.
- b) Both the hearing officer and the parties or their representatives may examine witnesses.
- c) A party may conduct examination and cross-examination ~~thatwhich~~ is shown to be necessary to a full and fair disclosure of facts bearing upon matters in issue, provided that ~~thesuch~~ examination or cross-examination does not abuse or harass

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a witness.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.170 Evidence at Hearings**

- a) When the hearing results from the denial of an application for licensure or accreditation, or denial of an application for reinstatement of licensure or accreditation, the Respondent shall have the right to introduce evidence at the hearing that was not made available to the ~~Agency~~Department at the time the application was denied. If the hearing officer determines that ~~thesueh~~ additional evidence could have affected the ~~Agency's~~Department's decision to deny the application, the hearing officer shall suspend the hearing to enable appropriate representatives of the ~~Agency~~Department to consider this additional evidence and to decide whether the decision to deny the application should be modified or reversed.
- b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under ~~thosesueh~~ rules of evidence may be admitted (except where precluded by statute) if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. When the admissibility of evidence is in dispute and depends upon fairly arguable interpretations of law, ~~thesueh~~ evidence shall be admitted. 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. Any party may submit evidence in rebuttal.
- c) Accurate summaries of voluminous documents may be admitted into evidence. The document summarized need not itself be admitted into evidence. Copies of the document need not be provided so long as all parties are accorded a reasonable opportunity to inspect the document summarized.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.180 Cross-Examination**

- a) Subject to the evidentiary requirements ~~of this Part~~, a party may conduct cross-

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examination required for a full and fair disclosure of the facts.

- b) If the hearing officer determines that a witness is hostile or unresponsive, the hearing officer shall authorize the examination by the party calling ~~the~~such witness as if under cross-examination.
- c) Any party may call any adverse party as a witness and proceed to examine ~~that~~such adverse party as if under cross-examination except that, if the Respondent wants to call a representative of the ~~Agency~~Department as an adverse witness, he/she may do so only if ~~the representative~~such representative(s) was directly involved in the determinations ~~that~~which served as the basis for the ~~Agency's~~Department's Preliminary Order under this Part.
- d) Any party calling a witness, upon a showing that he/she called the witness in good faith and is surprised by the testimony of the witness, may impeach that witness by evidence of prior inconsistent statements.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.190 Official Notice**

- a) Official notice may be taken of:
  - 1) Matters of which the Circuit Courts of this State may take judicial notice; and
  - 2) Generally recognized technical or scientific facts within the ~~Agency's~~Department's specialized knowledge.
- b) Parties shall be notified before or during a hearing, or by reference in preliminary reports, or otherwise, of the material noticed, including any staff memoranda or data to be offered as evidentiary matter during the course of the hearing, and the parties shall be afforded an opportunity to contest the material so noticed. The Agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.
- b) ~~Parties shall be notified either before or during a hearing, or by reference in preliminary reports, or otherwise, of the material noticed, including any staff memoranda or data to be offered as evidentiary matter during the course of the~~

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*hearing, and they shall be afforded an opportunity to contest the material so noticed. The Department's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence. (Ill. Rev. Stat. 1985, ch. 127, par. 1012)*

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.210 Hearing Record**

- a) The ~~Agency~~Department shall designate an official reporter to make and transcribe a stenographic record of the adjudicatory proceedings.
- b) A complete record of the hearing shall include:
  - 1) all pleadings (including all notices, responses, motions, and rulings);
  - 2) evidence received;
  - 3) a statement of matters officially noticed;
  - 4) offers of proof, objections and rulings ~~on objections~~thereon;
  - 5) proposed findings and exceptions;
  - 6) any recommended decision, opinion or report by the hearing officer;
  - 7) staff memoranda or data submitted to the hearing officer or the ~~Agency~~Department in connection with the consideration of the case; and
  - 8) any ex-parte communication as defined by the ~~provisions of the~~ Illinois Administrative Procedure Act ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1010-60)~~. ~~The~~Such communication shall not form the basis for any finding of fact.
- c) A copy of the record will be reproduced at the request of any party ~~involved. The requesting party shall bear~~to the review ~~who bears~~ the cost ~~thereof in accordance with Ill. Rev. Stat. 1985, ch. 116, par. 206~~.
- d) The ~~Agency~~Department shall be the official custodian of the records of administrative hearings held before the ~~Agency~~Department.

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(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.220 Hearing Officer's Report**

- a) As soon as practicable after the close of a hearing, the hearing officer shall prepare a written report of the case, which shall be based upon the evidence adduced at the hearing or otherwise included in the record. The written report shall contain findings of fact, a recommended decision and the reasons ~~for the decision therefor~~.
- b) This report shall be submitted to the Director. The hearing officer shall also send a copy of ~~the~~ such report to the Respondent or his/her counsel and to the ~~Agency's~~ ~~Department's~~ counsel. Both ~~the~~ Respondent and the ~~Agency's~~ ~~Department's~~ counsel may file written exceptions ~~with~~ the Director within ~~ten~~ (10) days.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

**Section 200.230 Final Decision of the Director**

- a) The Director shall reach a final decision in each proceeding ~~that, which~~ shall be specified in a written order including findings of fact and conclusions of law separately stated. Findings of fact, if set forth in ~~statute~~ ~~statutory~~ language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- b) A copy of the ~~Final Decision~~ ~~Order~~ of the Director shall be served personally or by certified or registered mail upon all parties to the proceeding.
- c) The decision of the Director shall be considered a ~~final and binding administrative order subject to the Administrative Review Law~~ ~~Final Order~~.

(Source: Amended at 33 Ill. Reg. 14137, effective September 28, 2009)

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- 1) Heading of the Part: Community Health Center Expansion
- 2) Code Citation: 77 Ill. Adm. Code 975
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
975.100	New
975.110	New
975.200	New
975.210	New
975.220	New
975.230	New
975.240	New
975.250	New
975.260	New
975.270	New
- 4) Statutory Authority: Community Health Center Expansion Act [410 ILCS 66]
- 5) Effective Date of Rulemaking: September 25, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 6, 2009; 33 Ill. Reg. 3940
- 10) Has JCAR issued a Statement of Objection to these rules? Yes
  - A) Statement of Objection: September 4, 2009; 33 Ill. Reg. 12419
  - B) Agency Response: October 9, 2009; 33 Ill. Reg. 14200
  - C) Date Agency Response Submitted for Approval to JCAR: September 17, 2009
- 11) Differences between proposal and final version:

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No changes were made to the proposed rulemaking during the first notice period.

The following change was made in response to comments and suggestions of JCAR:

Section 975.100: a definition for "Grant" was included in the rulemaking:

"Grant" refers to funds awarded to a Community Health Center under the Act *for the purpose of establishing new community health center sites to provide primary health care services* (Section 10(a) of the Act) or to provide *sustaining funds to grantees that have met the initial proposed project objectives and can demonstrate continued financial need.* (Section 10.5 of the Act)

- 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: Part 975 was promulgated to administer the Community Health Center Expansion Act [410 ILCS 66], which established a grant program to provide additional support to Community Health Centers throughout the State. These rules include definitions, incorporated and referenced materials, grant requirements, sustainability funding, guidelines, eligibility requirements, use of grant monies, reporting obligations and public comment requirements.
- 16) Information and questions regarding these adopted rules shall be directed to:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5<sup>th</sup> Floor  
Springfield, Illinois 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 975  
COMMUNITY HEALTH CENTER EXPANSION

## SUBPART A: GENERAL PROVISIONS

Section	
975.100	Definitions
975.110	Incorporated and Referenced Materials

SUBPART B: GRANTS TO EXPAND  
FEDERALLY QUALIFIED HEALTH CENTER PROGRAMS

Section	
975.200	Grants
975.210	Sustainability Funding
975.220	Eligibility for Grant
975.230	Program Requirements
975.240	Use of Grant Moneys
975.250	Application Evaluation Process
975.260	Reporting
975.270	Public Comment

AUTHORITY: Implementing and authorized by the Community Health Center Expansion Act [410 ILCS 66].

SOURCE: Adopted at 33 Ill. Reg. 14152, effective September 25, 2009.

## SUBPART A: GENERAL PROVISIONS

**Section 975.100 Definitions**

"Act" means the Community Health Center Expansion Act [410 ILCS 66].

*"Acquire a new physical location"* means acquisition through leasing arrangements or construction of existing or new space *for the purpose of*

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*delivering primary health care services.* The purchase of land is excluded.  
(Section 20 of the Act)

"Community health center" means migrant health centers or community health centers or health care programs for the homeless or for residents of public housing supported under section 330 of the federal Public Health Service Act and Federally Qualified Health Centers, including Look-Alikes, as designated by the Secretary of the United States Department of Health and Human Services, that operate at least one federally designated primary health care delivery site in the State of Illinois.

*"Community health center site" means a new physical site where a community health center will provide primary health care services either to a medically underserved population or area or to the uninsured population of this State.*  
(Section 5 of the Act)

*"Community provider" means a Federally Qualified Health Center or FQHC Look-Alike (community health center or health center), designated as such by the Secretary of the United States Department of Health and Human Services, that operates at least one federally designated primary health care delivery site in the State of Illinois.* (Section 5 of the Act)

*"Department" means the Illinois Department of Public Health.* (Section 5 of the Act)

"Eligible applicant" means a Federally Qualified Health Center or an FQHC Look-Alike.

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the Public Health Service Act.

"FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the Public Health Service Act, but does not receive federal grants under that authority.

"Grant" refers to funds awarded to a Community Health Center under the Act *for the purpose of establishing new community health center sites to provide primary health care services* (Section 10(a) of the Act) or to provide *sustaining funds to*

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*grantees that have met the initial proposed project objectives and can demonstrate continued financial need.* (Section 10.5 of the Act).

"Grantee" refers to a community health center that is the recipient of an expansion grant or sustainability grant award.

"Initial proposed project objectives" refers to objectives included in the application that was approved and funded under a Community Health Center Expansion Act Grant.

"*Medically underserved area*" or "MUA" means an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services. (Section 5 of the Act)

"*Medically underserved population*" or "MUP" means the population of an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of those services. (Section 5 of the Act)

"*Primary health care services*" means the following:

*Basic health services consisting of the following:*

*Health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, if appropriate, physician assistants, nurse practitioners, and nurse midwives.*

*Diagnostic laboratory and radiologic services.*

*Preventive health services, including the following:*

*Prenatal and perinatal services.*

*Screenings for breast, ovarian, and cervical cancer.*

*Well-child services.*

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*Immunizations against vaccine-preventable diseases.*

*Screenings for elevated blood lead levels, communicable diseases, and cholesterol.*

*Pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care.*

*Voluntary family planning services.*

*Preventive dental services.*

*Emergency medical services.*

*Pharmaceutical services as appropriate for particular health centers.*

*Referrals to providers of medical services and other health related services (including substance abuse and mental health services).*

*Patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services.*

*Services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of those individuals).*

*Education of patients and the general population served by the health center regarding the availability and proper use of health services.*

*Additional health services consisting of services that are appropriate to meet the health needs of the population served by the health center involved and that may include the following:*

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*Environmental health services, including the following:*

*Detection and alleviation of unhealthful conditions associated with water supply.*

*Sewage treatment.*

*Solid waste disposal.*

*Detection and alleviation of rodent and parasite infestation.*

*Field sanitation.*

*Housing.*

*Other environmental factors related to health.*

*Special occupation-related health services for migratory and seasonal agricultural workers, including the following:*

*Screening for and control of infectious diseases, including parasitic diseases.*

*Injury prevention programs, which may include prevention of exposure to unsafe levels of agricultural chemicals, including pesticides. (Section 5 of the Act)*

"Project service area" means the geographic area to be served by the grantee.

"Recipient" refers to a community provider that is or will become a community health center and meets the application requirements outlined in Section 975.220.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a community located within a Metropolitan Statistical Area but having a population of 2,500 or less.

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"Service area" is the geographic area composed of the Medically Underserved Area or Medically Underserved Population.

"Sustainability funding" means an additional three years of funding by the Department after the initial three year expansion grant period. These funds shall be in an amount up to 50% of a grantee's third-year grant funding for each of three additional years.

*"Uninsured population" means persons who do not own private health care insurance, are not part of a group insurance plan, and are not eligible for any State or federal government-sponsored health care program. (Section 5 of the Act)*

"Urban" means any geographic area not designated as a rural area.

**Section 975.110 Incorporated and Referenced Materials**

- a) The following Illinois statutes and rules are referenced in this Part:
  - 1) Community Health Center Expansion Act [410 ILCS 66]
  - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- b) The following federal statute is referenced in this Part:

Public Health Service Act (42 USC 201 et seq.)
- c) The following federal guidelines are incorporated in this Part:
  - 1) "Defining Scope of Project and Policy for Requesting Changes" (Policy Information Notice (PIN number 2008-010), December 31, 2007, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care Policy, Office of Grants Management, 4350 East West Highway, Bethesda, Maryland 20814)
  - 2) "Federally Qualified Health Center Look-Alike Guidelines and Application" (PIN) number 2003-21), August 26, 2003, U.S. Department

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of Health and Human Services, Health Resources and Services  
Administration, Bureau of Primary Health Care Policy, Office of Grants  
Management, 4350 East West Highway, Bethesda, Maryland 20814

- d) The following federal regulation is incorporated in this Part:
- Grants for Community Health Services (42 CFR 51c, October 1, 2007)
- e) All incorporations by reference of federal regulations and guidelines refer to materials on the date specified and do not include any subsequent amendments or editions.

SUBPART B: GRANTS TO EXPAND  
FEDERALLY QUALIFIED HEALTH CENTER PROGRAMS

**Section 975.200 Grants**

- a) *The Department shall establish a community health center expansion grant program and may make grants to eligible community providers subject to appropriations for that purpose. The grants shall be for the purpose of:*
- 1) *establishing new community health center sites to provide primary health care services to medically underserved populations or areas as defined in Section 5 of the Act; or*
  - 2) *providing primary health care services to the uninsured population of Illinois. (Section 10 of the Act)*
- b) *Grants under this Section shall be for periods of 3 years. The Department may make new grants whenever the total amount appropriated for grants is sufficient to fund both the new grants and the grants already in effect. (Section 10 of the Act)* Sustainability grant funding for an additional three years shall be available in accordance with Section 975.210.
- c) *A recipient of a grant to establish a new community health center site must add each such site to the recipient's established service area for the purpose of extending federal FQHC or FQHC Look-Alike status to the new site in accordance with federal regulations (42 CFR 51c). The grant recipient must complete this process by the end of the second year of the grant. (Section 10 of the Act)*

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- d) Failure to comply with this Part shall result in the discontinuation of grant funding.

**Section 975.210 Sustainability Funding**

- a) *Sustaining funds shall be available to grantees under Section 10 of the Act that have met the initial proposed project objectives and can demonstrate continued financial need. These funds shall be provided by the Department for a 3-year period, subject to appropriation. Funds granted each year under this Section shall be in an amount up to 50% of a grantee's third-year-grant funding under Section 975.200. (Section 10.5 of the Act)*
- b) Sustaining grant funding will be awarded to grantees meeting the following requirements:
- 1) Be a prior recipient of a Community Health Center Expansion Act Grant;
  - 2) Be able to document successful accomplishment of goals and objectives from the originally funded project; and
  - 3) Be able to document the need for additional funding from the Community Health Center Expansion Act Grant for the continuation of the goals and objectives presented in the original application.

**Section 975.220 Eligibility for Grant**

*To be eligible for a grant under the Act and this Part, a recipient must be a community provider as defined in Section 975.100. (Section 15 of the Act)*

- a) Applicants shall meet the following requirements:
- 1) Be an FQHC or FQHC Look-Alike as defined in Section 975.100;
  - 2) Serve, in whole or in part, a designated MUA or MUP as defined in Section 975.100;
  - 3) Meet requirements for FQHC grantees and Look-Alikes under section 330 of the Public Health Service Act; and

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- 4) Offer primary health care services as defined in Section 975.100.
- b) Applicants may not apply for funding that would allow a community health center site to receive two or more grants at the same time.
- c) Letter of intent  
The applicant shall send a letter of intent (LOI) and an application to apply for grant funds to the Department that include the following:
- 1) The proposed grant project description, location and applicant.
  - 2) The proposed users of the primary health care services and project service area, including identification of any MUA or MUP designations.
  - 3) Issues creating a high need for primary health care services, including any significant or unique barriers to care.
  - 4) Other providers of care in the project service area, including any other FQHCs under section 330 of the Public Health Service Act.
  - 5) All primary health care services to be provided, including mental health, substance abuse, and oral health care services, as well as the mechanism for providing each service (e.g., direct service, referral).
  - 6) Project stage of development and the ability of the applicant to meet the requirements of this Part for program compliance.
  - 7) The readiness to receive funding, including the ability of the facility and providers at the new access point or expanded facility to be operational within 120 days after the warrant for payment of the grant award is issued by the Office of the Comptroller.
- d) Application  
The application format shall include, but not be limited to:
- 1) A summary of the applicant's plan of action to address the goals of either:
    - A) Establishing a *new community health center (CHC) site to provide primary health care services to medically underserved populations*

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*or areas or to provide primary health care services to the uninsured population of Illinois; or*

- B) Expanding the services of an existing CHC site to provide *primary health care services to medically underserved populations or areas or primary health care services to the uninsured population of Illinois.* (Section 10(a) of the Act)
- 2) A project narrative that shall include the following information:
- A) Proposed service area and applicant description;
  - B) Statement of need for the project;
  - C) Project objectives;
  - D) Plan of operation;
  - E) Project evaluation; and
  - F) Budget.
- e) Notification process
- As soon as the decision to apply is made, the prospective applicant shall send a copy of the "Notification of Application for State Funding of Community Health Center Expansion" to each of the following entities in the geographic area of the FQHC for their input. The application packet submitted to the Department shall include a copy of the completed notification form, as well as the names and addresses of individuals to whom the forms were sent, the organizations that the individuals represent, and the date of the notification.
- 1) Local health department administrator;
  - 2) Local hospital administrators;
  - 3) Illinois State Medical Society;
  - 4) Illinois Primary Health Care Association;

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- 5) Other FQHCs and FQHC Look-Alikes in the service area;
- 6) Illinois State Dental Society;
- 7) Illinois Public Health Association; and
- 8) At least one newspaper of general circulation in the geographic area of the FQHC.

**Section 975.230 Program Requirements**

- a) Projects *shall be for the purpose of:*
  - 1) *Establishing new community health center (CHC) sites to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois; or*
  - 2) Expanding the services of an existing CHC site to provide *primary health care services to medically underserved populations or areas* or to provide *primary health care services to the uninsured population of Illinois.*  
(Section 10(a) of the Act)
- b) Projects that create a new community health center site are required to expand their federal scope of project according to the U.S. Department of Health and Human Services Policy Information Notice 2008-010 "Defining Scope of Project and Policy for Requesting Changes" or submit an application for section 330 funding before the end of the second grant year.
- c) Projects that are managed by FQHC Look-Alikes shall comply with the U.S. Department of Health and Human Services Policy Information Notice 2003-21 "Federally Qualified Health Center Look-Alike Guidelines and Application".
- d) Projects shall be in operation within 120 days after the warrant for payment of the grant award is issued by the Office of the Comptroller.
- e) Grantees shall develop an evaluation component to determine the effectiveness and efficiency of the project.

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**Section 975.240 Use of Grant Moneys**

- a) *A recipient of a grant under the Act and this Part may use the grant moneys to do any one or more of the following:*
- 1) *Purchase equipment.*
  - 2) *Acquire a new physical location for the purpose of delivering primary health care services.*
  - 3) *Hire and train staff.*
  - 4) *Develop new practice networks.*
  - 5) *Purchase services or products that will facilitate the provision of health care services at a new community health center site. (Section 20 of the Act)*
- b) Grant funds shall not be used for the following:
- 1) To offset existing debt;
  - 2) To supplant existing funds that support a service, program or activity for which grant support is requested;
  - 3) To purchase real property.

**Section 975.250 Application Evaluation Process**

The Department will review applications for completeness and eligibility. Applications meeting all requirements will be forwarded to a review committee. Those applications that are determined to be ineligible or incomplete will be returned to the applicant and will not be eligible for review.

- a) The review committee will consist of volunteers who have worked with uninsured populations or MUA or MUP and, when possible, have prior grant review experience and who represent different geographic areas in the State.

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- b) The review committee will review the grant applications. Applications are assigned a point score based on the following criteria:
  - 1) Documented need for the project (0-25 Points)
  - 2) Increased access to health care for service area residents (0-20 Points)
  - 3) Ability to implement the proposed plan (0-20 Points)
  - 4) Description of project expectations to be accomplished (0-20 Points)
  - 5) Realistic budget for the development of the project (0-15 Points)
- c) Upon completion of the review committee's evaluation, the Department will assign bonus points to applications based on the following criteria:
  - 1) Applicants who have never been a grantee of the Community Health Center Expansion Grant program (0-10 points).
  - 2) Applicants who are not currently receiving grant funds under the Community Health Center Expansion Grant program (0-5 points).

**Section 975.260 Reporting**

- a) *Within 60 days after the first and second years of a grant under the Act and this Part, the grant recipient must submit a progress report to the Department. The Department may assist each grant recipient in meeting the goals and objectives stated in the original grant proposal submitted by the recipient, and may assist the grant recipient in ensuring that grant moneys are being used for appropriate purposes, and that residents of the community are being served by the new community health center sites established with grant moneys. (Section 25 of the Act)*
- b) Grantees shall submit a final report within 60 days after the conclusion of year three of the grant. The degree to which each objective in the grant proposal has been met shall be fully addressed in this report.
- c) Grantees receiving sustainability funding shall submit a progress report 60 days after the conclusion of each year of funding.

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- d) Grantees shall annually provide progress and fiscal reports.
- e) Grantees shall be limited to three years of initial funding and three years of sustainability funding.

**Section 975.270 Public Comment**

- a) *Notification of a 30-day general public comment period shall be given to the community into which a grant applicant proposes to expand by publication in at least one newspaper of general circulation in that community. (Section 30(b) of the Act) Comments shall be submitted to the Department.*
- b) *The Department shall consider the contents of written comments only as part of the overall grant review process. (Section 30(b) of the Act)*

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.7300                      Adopted Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/704A(b) and 5/1401
- 5) Effective Date of Amendment: September 28, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: 33 Ill. Reg. 7570; June 12, 2009 and 33 Ill. Reg. 9235; July 6, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with JCAR. Also, this rulemaking combines the text of 2 previously proposed rulemakings into this one adopted rulemaking.
- 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? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.3374	New Section	32 Ill. Reg. 19894; December 26, 2008
100.3400	Amendment	33 Ill. Reg. 11201; July 31, 2009
100.3405	New Section	33 Ill. Reg. 11201; July 31, 2009

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100.5150                      Amendment                      33 Ill. Reg. 12662; September 18, 2009

- 15) Summary and Purpose of Rulemaking: The Illinois Income Tax Act (IITA) Section 704A(b) provides that an employer shall file withholding returns "in the form and manner required by the Department". Under this authority, this rulemaking amends Section 100.7300(a) to require employers who are required to file their federal withholding returns electronically to also file their Illinois withholding returns electronically.

IITA Section 704A(b) provides that an employer shall file withholding returns "in the form and manner required by the Department". Under this authority, this rulemaking amends Section 100.7300(b) to require employers who are required to file W-2 information electronically for federal purposes to also file their W-2 information with the Department of Revenue electronically.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Paul Caselton  
Deputy General Counsel – Income Tax  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794

217/782-7055

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

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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 and River Edge Redevelopment 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)  
100.2185 Film Production Services Credit (IITA 213)  
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)  
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)  
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)  
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))  
100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

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

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## Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

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

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or 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

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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

## Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 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

- 100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for

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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)
100.3015	Business Income Election (IITA Section 1501)
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)

## 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)

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100.3370	Sales Factor (IITA Section 304)
100.3371	Sales Factor for Telecommunications Services
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))
100.3420	Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500	Allocation and Apportionment of Base Income by Nonresident Partners

## SUBPART M: ACCOUNTING

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100.4500	Carryovers of Tax Attributes (IITA Section 405)

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

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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 Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions
100.5070	List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
100.5080	Registration of Tax Shelters (IITA Section 1405.5)

## SUBPART O: COMPOSITE RETURNS

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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

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- 100.5160 Composite Returns: Credits on Separate Returns
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
- 100.5180 Composite Returns: Overpayments and Underpayments

## SUBPART 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)
- 100.7035 Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
- 100.7040 Employer Registration (IITA Section 701)
- 100.7050 Computation of Amount Withheld (IITA Section 702)
- 100.7060 Additional Withholding (IITA Section 701)
- 100.7070 Voluntary Withholding (IITA Section 701)
- 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

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- 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 and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
- 100.7310 Returns Filed and Payments Made on Annual Basis (IITA Section 704)
- 100.7320 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
- 100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
- 100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)
- 100.7350 Domestic Service Employment (IITA Sections 704 and 704A)
- 100.7360 Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
- 100.7370 Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

## 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

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100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

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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

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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

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## Section

100.9700	Unitary Business Group Defined (IITA Section 1501)
100.9710	Financial Organizations (IITA Section 1501)
100.9720	Nexus
100.9730	Investment Partnerships (IITA Section 1501(a)(11.5))
100.9750	Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

## SUBPART CC: LETTER RULING PROCEDURES

## Section

100.9800	Letter Ruling Procedures
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## SUBPART DD: MISCELLANEOUS

## Section

100.9900	Tax Shelter Voluntary Compliance Program
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## 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,

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effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11,

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2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009.

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

**Section 100.7300 Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)**

- a) Quarterly returns. Except as otherwise provided in Section 100.7310 or 100.7350, every employer required to deduct and withhold tax on compensation paid in Illinois shall make a return for the first calendar quarter in which the tax is deducted and withheld and for each subsequent calendar quarter (whether or not compensation is paid in that quarter) until a final return is filed. (See IITA Sections 704(c) and 704A(b).) Each return required under this subsection must be made in the form and manner required by the Department [35 ILCS 5/704(b) and 704A(b)].
- 1) For calendar years after 2009, payroll providers who withhold Illinois income tax for employers during the year and who are required to file federal withholding returns on magnetic media under 26 CFR 301.6011-2 shall file returns due under this subsection (a) with the Department using the same magnetic media used for their federal filing.
  - 2) All other returns required under this subsection (a) may be filed with the Department at the address provided on the Form IL-941, Illinois Quarterly Withholding Income Tax Return, or its instructions.

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- b) Filing and retention~~Retention~~ of copies of combined W-2.
- 1) For calendar years prior to 2008.
    - A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. For calendar years prior to 2008, every employer shall maintain copies of the combined W-2 forms for three years from the due date of the IL-W-3 for that period. For each calendar year after 2007, every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be forwarded to the Department within 30 days after the written request.
    - B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d) above), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.
    - C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s. Employers chosen by the Department will be required to file W-2s in the same manner they are required to file W-2s federally.
      - i) Employers with more than 250 employees in the State of Illinois will be required to provide the W-2s on magnetic

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tape, diskette, or cartridge meeting the specifications required by the Social Security Administration (see 26 CFR 301.6011-2).

- ii) All other employers may provide the W-2s on magnetic media or paper.

- D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.

- 2) ~~The following persons, if they~~For calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year and who are required to file copies of the W-2s on magnetic media under 26 CFR 301.6011-2, shall file copies of the W-2s with the Department using the same magnetic media used for their federal filing no later than March 31 of the year following the year of the withholding, unless a later due date is prescribed under federal law for filing the copies of the W-2, in which case filing of copies with the Department shall be due on the same date. ~~(see~~See IITA Sections 704(f) and 704A(f)-;

A) for calendar years after 2007, payroll providers who withhold Illinois income tax for employers during the year; and

B) for calendar years after 2008, all employers.

- 3) For calendar years after 2007, with respect to copies of W-2s other than those required to be filed on magnetic media under subsection (b)(2):
  - A) Every employer required under this Section or Section 100.7310 or 100.7350 to make a return of tax withheld from compensation for a period ending December 31, or for any period for which a return is made as a final return, shall retain a copy of each wage and tax statement on the combined W-2 required under Section 100.7200 to be furnished by the employer with respect to compensation paid during the calendar year. Every employer shall maintain copies of the combined W-2 forms until January 31 of the fourth year following that calendar year. If the Department makes a written request for copies of the combined W-2 forms, the copies shall be

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forwarded to the Department within 30 days after the written request.

- B) If an employer issues a corrected copy of a combined W-2 to an employee for a prior calendar year (see Section 100.7200(d)), a copy shall be retained for a period of four years from the date fixed for filing the employer's return of tax withheld for the period ending December 31 of the year in which the correction is made, or for any period in the year for which the return is made as a final return. A statement explaining the corrections shall also be retained and, if the Department requests, a copy of the corrected W-2 shall be submitted within 30 days after the written request.
  - C) Each year, the Department will contact a sample of Illinois employers and require those employers to provide copies of their employee W-2s.
  - D) An extension of time for providing statements requested by the Department shall be granted upon a showing of good cause.
- c) Payments of amounts withheld prior to January 1, 2008. Except as otherwise provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld prior to January 1, 2008:
- 1) Quarter-monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a quarter-monthly tax payment form if the amount of tax deducted and withheld during any quarter-monthly period plus the amount previously withheld and not remitted to the Department exceeds \$1,000. An employer need not file a quarter-monthly form if no quarter-monthly payment is due. Certain taxpayers with tax liabilities exceeding statutory thresholds are required to pay their tax liabilities by electronic funds transfer. 86 Ill. Adm. Code 750 sets forth the rules of the Department concerning payment of taxes by electronic funds transfer, as well as the statutory payment thresholds.
  - 2) Monthly tax payments. Every employer required to file a quarterly return under subsection (a) shall also file a monthly tax payment form if the amount of tax deducted and withheld during any calendar month plus the amount previously withheld and not remitted to this Department exceeds

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\$500 including amounts previously withheld and not remitted to the Department, but does not exceed \$1,000. An employer need not file a monthly form if no monthly payment is due. No monthly form is required for the third month in any calendar quarter. The information otherwise required to be reported on the monthly form for the third month in a calendar quarter shall be reported on the quarterly return filed for that quarter and no monthly form need be filed for that month.

- d) Payments of amounts withheld on or after January 1, 2008. Except as provided in Section 100.7310 or 100.7350, with respect to amounts withheld or required to be withheld on or after January 1, 2008:
- 1) Semi-weekly tax payments.
    - A) An employer who withheld or was required to withhold more than \$12,000 during the look-back period for a calendar year must make semi-weekly payments for the entire calendar year.
    - B) An employer who withholds or is required to withhold more than \$12,000 in any quarter of a calendar year is required to make semi-weekly payments of amounts withheld or required to be withheld during each remaining quarter of that calendar year and for the subsequent calendar year. (See IITA Section 704A(c)(1).)
  - 2) Monthly tax payments. An employer who is not required to make semi-weekly payments shall make monthly payments of taxes withheld or required to be withheld. (See IITA Section 704A(c)(3).)

(Source: Amended at 33 Ill. Reg. 14168, effective September 28, 2009)

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.92                      Adopted Action:  
Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104; 625 ILCS 5/6-113
- 5) Effective Date of Amendment: September 28, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, 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: 33 Ill. Reg. 8890; June 26, 2009
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Technical, non-substantive changes were made as suggested by JCAR.
- 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 amendment, currently in effect?  
No
- 14) Are there any amendments pending on this Part? Yes  

<u>Section Number:</u> 1030.97	<u>Proposed Action:</u> Amendment	<u>Illinois Register Citation:</u> 33 Ill. Reg. 12685; September 18, 2009
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- 15) Summary and Purpose of Amendment: This rulemaking is being amended to authorize a person holding a "L" or "M" classification to operate a motorcycle or motor-driven cycle with rear wheel extensions while maintaining a single front wheel.

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- 16) Information and questions regarding this adopted amendment shall be directed to:

Arlene J. Pulley  
Office of the Secretary of State  
Driver Services Department  
2701 South Dirksen Parkway  
Springfield, Illinois 62723

217/557-4462

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

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1030  
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Driver's Licenses and Temporary Instruction Permits
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person Identification Card
1030.92	Restrictions

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- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

**AUTHORITY:** Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

**SOURCE:** Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg.

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12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31

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Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009.

**Section 1030.92 Restrictions**

- a) A driver services facility representative shall have the authority to determine license restrictions. No restriction shall be added until the driving test is given unless the restriction is due to a vision or hearing defect.
- b) If a change in a person's physical and/or visual condition is discovered by a facility representative, the representative has the authority to add, delete or change the restrictions.
- c) A Type B restriction requires corrective eye lenses. This restriction is added when a person needs corrective eye lenses to meet visual acuity standards as provided in Section 1030.70. This restriction includes eye glasses and contact lenses in one or both eyes, pursuant to Section 1030.75.
- d) A Type C restriction requires the driver to use one or more mechanical aids (e.g., hand operated brake, gearshift extension, shoulder harness, or foot operated steering wheel) to assist with the proper and safe operation of the vehicle.
- e) A Type D restriction requires the driver to use one or more prosthetic aids (e.g., artificial legs, artificial hands, hook on right or left arm, or brace on each leg) while operating a motor vehicle.
- f) A Type E restriction requires automatic transmission. An automatic transmission restriction is added when a driver is unable to operate a standard shift vehicle due to the minimal use of one or both arms and/or legs.
- g) A Type F restriction requires left and right outside rearview mirrors when a driver is hearing impaired, has a monocular visual acuity reading of 20/100 or worse in

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either eye, requires a right outside rearview mirror because of problems turning the head while backing, cannot meet the peripheral vision requirements of Section 1030.70(a), and/or takes the road test in a right hand-driven vehicle with the steering wheel on the right side. A driver may be restricted to both left and right rearview mirrors if minimum peripheral standards are met by the use of only one eye in accordance with Sections 1030.70 and 1030.75.

- h) A Type G restriction requires the driver to drive only in the daylight. This restriction is added when a driver has binocular visual acuity that does not meet the 20/40 minimum in accordance with Section 1030.70(a), but is not worse than 20/70. People who want to drive utilizing a non-standard lens arrangement pursuant to Section 1030.75 are restricted to daylight driving only.
- i) A Type J restriction with appropriate numerical indicators includes other restrictions not listed in this Section. These Type J restrictions and numerical indicators are as follows:
  - 1) J01 Driver has been issued an Illinois Medical Restriction Card, which must be carried in addition to a valid Illinois driver's license/permit.
  - 2) J02 Driver authorized to operate a religious organization bus within classification, as provided in IVC Section 6-106.2.
  - 3) J03 Driver authorized to operate a religious organization bus or van within Class D only. The driver took the religious organization bus test in a Class D vehicle, but may hold a Class A, B or C license.
  - 4) J04 Driver authorized to operate a religious organization bus or van within Class C or a lesser classification vehicle only. The driver took the religious organization bus test in a Class C vehicle, but may hold a Class A or B license.
  - 5) J05 Driver authorized to operate a senior citizen transportation vehicle within classification. The driver operates a vehicle that is utilized solely for the purpose of providing transportation for senior citizens, as provided in IVC Section 6-106.3.

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- 6) J06 Driver authorized to operate a senior citizen transportation vehicle within Class D only. The driver took the senior citizen transportation vehicle test in a Class D vehicle, but may hold a Class A, B or C license.
- 7) J07 Driver authorized to operate a senior citizen transportation vehicle within written Class C vehicle, or a lesser classification vehicle only. The driver took the senior citizen transportation vehicle test in a Class C vehicle, but may hold a Class A or B license.
- 8) J08 Driver authorized to operate a commuter van in a for-profit ridesharing arrangement within classification, as provided in IVC Section 6-106.4.
- 9) J09 Driver who is 16 or 17 years of age authorized to operate either Class L motor-driven cycles or Class M motorcycles, as provided in IVC Section 6-103(2).
- 10) J10 Driver restricted to the operation of a vehicle with a GVWR of 16,000 pounds or less.
- 11) J11 Indicates the driver took the road test on a three-wheel motorcycle (Class M) or three-wheel motor-driven cycle (Class L) and is restricted to a three-wheel cycle of the proper class.
- 12) J12 Driver authorized to operate Class B or lesser classification vehicle for the passenger endorsement.
- 13) J13 Driver authorized to operate Class C classification vehicle for the passenger endorsement.
- 14) J14 Restricted to the use of a non-standard lens arrangement pursuant to Section 1030.75 when operating a motor vehicle. (Lens arrangement may be designed for monocular or binocular vision.)
- 15) J15 Special Restrictions – An applicant may have special restrictions applied specifically to the vehicle the applicant is operating at the time a road test is being administered by a facility examiner. These special restrictions may apply only when the applicant is operating

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that particular motor vehicle. This J15 restriction only applies to variations of C, D or E restrictions. To remove a special restriction or to operate another motor vehicle would require the applicant to be administered another road test in the new vehicle.

- 16) J16 Pedalcycle Only – Authorizes an applicant holding a Class L license to operate a pedalcycle only.
- [17\)](#) [J17](#) [Authorizes a person holding a Class L or M license to operate a motorcycle or motor driven cycle with rear wheel extensions while maintaining a single front wheel.](#)
- [1847\)](#) J33 Driver authorized to operate a Class D vehicle using a non-standard lens arrangement, pursuant to Section 1030.75, during nighttime hours.
- [1948\)](#) J48 Allows a person to use commercial privileges only for driving school buses to transport students for school-related activities.
- [2049\)](#) J50 Farm waived non-CDL (Class A only) – Allows farmers or a member of the farmer's family who is 21 years of age or older and has completed all of the applicable exams (core, combination, air brake, and all three parts of the road test) to drive a farm waived non-CDL (Class A only) vehicle. Those eligible may operate the truck/tractor semi-trailer to transport farm products, equipment or supplies to or from a farm, if used within 150 air miles of the farm, and not used in the operations of a common or contract carrier.
- [2120\)](#) J71 No photo or signature – out of state at renewal – license issued to driver who is temporarily absent from State of Illinois at expiration date of his/her driver's license.
- [2224\)](#) J72 No photo or signature – out of country at renewal – license issued to driver who is temporarily residing outside the United States of America at the expiration date of his/her driver's license.
- [2322\)](#) J73 No photo or signature – military or military dependent – license issued at the expiration of the driver's license of the licensee, spouse and dependent children who are living with the licensee while on

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENT

active duty serving in the Armed Forces of the United States outside the State of Illinois.

- | [2423](#)) J74 Military deferral card issued at the expiration of the driver's license to extend the expiration while in the military of the licensee, spouse and dependent children who are living with the licensee while on active duty serving in the Armed Forces of the United States outside the State of Illinois.
- | [2524](#)) J75 No photo or signature – administrative approval license to driver who having his/her photograph taken is against his/her religious convictions or has a serious facial disfigurement.
- | [2625](#)) J88 Deaf/Hard of Hearing – requires alternative forms of communication.
- | [2726](#)) J99 This restriction appears on the license if more than two J restrictions are placed on the driver.

- j) A Type K restriction indicates the driver is authorized to operate a commercial motor vehicle intrastate only.
- k) A Type L restriction indicates that the person is not authorized to operate vehicles equipped with air brakes.
- l) An applicant who wants to appeal a type of restriction that has been added to a driver's license, depending on the type of restriction, shall:
  - 1) For Type B, C, D, E, F, G, J01, or any other medical restriction that has been added to the driver's license pursuant to the restrictions contained in subsection (i), follow the manner prescribed by this Part.
  - 2) For any other types of restrictions that have been added to the driver's license pursuant to this Section, appeal to the Department of Administrative Hearings pursuant to IVC Section 2-118.
  - 3) Further review of all restrictions shall be conducted by the courts pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 33 Ill. Reg. 14185, effective September 28, 2009)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Licensing of Radioactive Material
- 2) Code Citation: 32 Ill. Adm. Code 330
- 3) The Notice of Proposed Amendment being corrected appeared at 33 Ill. Reg. 12061, dated August 28, 2009.
- 4) The information being corrected is as follows: The Agency originally responded to #6 of the Notice page questions with the following:
  - 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: No studies or reports were used in drafting this amendment to 32 Ill. Adm. Code 330.

This answer was incorrect and should be as follows:

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:

The following were used to assist the Agency in composing the proposed amendment:

- 32 Ill. Adm. Code 340.310, Illinois Emergency Management Agency, available at [www.iema.illinois.gov](http://www.iema.illinois.gov)
- 32 Ill. Adm. Code 330.32, Illinois Emergency Management Agency, available at [www.iema.illinois.gov](http://www.iema.illinois.gov)
- 10 CFR 20.1301, US Nuclear Regulatory Commission, available at [www.nrc.org](http://www.nrc.org)  
10 CFR 20.1402, US Nuclear Regulatory Commission, available at [www.nrc.org](http://www.nrc.org)
- NCRP Statement No. 6, Control of Air Emissions of Radionuclides, National Council of Radiation Protection and Measurement, September 18, 1984, available at [www.ncrponline.org](http://www.ncrponline.org)
- NCRP Report No. 116, Limitation of Exposure to Ionizing Radiation, National Council of Radiation Protection and Measurement, available at [www.ncrponline.org](http://www.ncrponline.org)

## ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF CORRECTION TO NOTICE ONLY

- IAEA Safety Series 89, Principles for the Exemption of Radiation Sources and Practices from Regulatory Control, International Atomic Energy Agency, September 25, 1988, available at [www-ns.iaea.org](http://www-ns.iaea.org)
- IAEA-TECDOC-855, Clearance levels for radionuclides in solid materials Application of exemption principles, International Atomic Energy Agency, available at [www.pub.iaea.org](http://www.pub.iaea.org)
- US NRC NUREG-1757, Rev. 2, Consolidated Decommissioning Guidance – Decommissioning Process for Materials Licensees, K.L. Banovac, et al., September 2006, U.S. Nuclear Regulatory Commission, available at [www.nrc.gov](http://www.nrc.gov)
- U.S.E.P.A. Office of Solid Waste and Emergency Response, OSWER No. 9200.4-18, Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination, Stephen D. Luftig and Larry Weinstock, August 22, 1997, available at [www.epa.gov](http://www.epa.gov)
- ISCORS Assessment of Radioactivity in Sewage Sludge: Modeling to Assess Radiation Doses, ISCORS Technical Report 2004-03, Interagency Steering Committee on Radiation Standards – Sewage Sludge Subcommittee, February 2005, available at [www.iscors.org](http://www.iscors.org)
- ISCORS Assessment of Radioactivity in Sewage Sludge: Recommendations on Management of Radioactive Materials in Sewage Sludge and Ash at Publicly Owned Treatment Works, ISCORS Technical Report 2004-04, Interagency Steering Committee on Radiation Standards – Sewage Sludge Subcommittee, February 2005, available at [www.iscors.org](http://www.iscors.org)
- User's Manual for RESRAD Version 6, U.S. Department of Energy, ANL/EAD-4, C. Yu, et al., Argonne National Laboratory – Environmental Assessment Division, July 2001, available at [web.ead.anl.gov/resrad](http://web.ead.anl.gov/resrad)
- RESRAD for Windows, (residual radioactive computer model), C. Yu, et al., Argonne National Laboratory – Environmental Assessment Division, available at [web.ead.anl.gov/resrad](http://web.ead.anl.gov/resrad)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Acquisition, Management and Disposal of Real Property
- 2) Code Citation: 44 Ill. Adm. Code 5000
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5000.340	Withdrawal
5000. APPENDIX A	Withdrawal
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: August 14, 2009; 33 Ill. Reg. 11741
- 5) Reason for the withdrawal: The Department is withdrawing the proposed amendments in favor of submitting standards in a new proposed rulemaking to establish limits for the allocation of area per person for purposes of enhancing the economic use of office space.

## SECRETARY OF STATE

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Business Corporation Act
- 2) Code Citation: 14 Ill. Adm. Code 150
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
150.241	Withdrawal
150.632	Withdrawal
150.635	Withdrawal
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: September 4, 2009; 33 Ill. Reg. 12375
- 5) Reason for the withdrawal: After further review, the Department of Business Services of the Office of the Secretary of State has decided to withdraw the proposed administrative rules at the 3 sections listed above.

## DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RESPONSE TO AN OBJECTION OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Community Health Center Expansion
- 2) Code Citation: 77 Ill. Adm. Code 975
- 3) Section Numbers:

975.100	975.230
975.110	975.240
975.200	975.250
975.210	975.260
975.220	975.270
- 4) Date Notice of Proposed Rules Published in the Register: March 6, 2009; 33 Ill. Reg. 3940
- 5) Date JCAR Statement of Objection Published in the Register: September 4, 2009; 33 Ill. Reg. 12419
- 6) Summary of Action Taken by the Agency: At its meeting on August 18, 2009, the Joint Committee on Administrative Rules objected to the Department of Public Health's rulemaking titled Community Health Center Expansion due to the Department's lack of timeliness in proposing rules. The Community Health Center Expansion Act [410 ILCS 66], which became effective on July 18, 2001, created a grant program to provide funding assistance for the establishment and expansion of Community Health Centers. The Department of Public Health has received appropriations and has administered the grant program since 2001.

The Department of Public Health experienced delays in drafting these rules. Specifically, these rules were in development for the past year. Program staff attrition and management staff turnover in the Department's Center for Rural Health resulted in a prolonged period during which rulemaking activities were suspended. The Department recognizes the importance of the timely filing of rules and will make a concerted effort to ensure the timeliness of future filings. The Department notes that although administrative rules were not in place prior to this proposal, grants awarded through this process were formalized in standard agreements to ensure that awards were appropriately processed, standards were maintained (in regard to monitoring and reporting requirements) and funds were expended appropriately.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
OCTOBER AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

CAPITOL BUILDING  
ROOM 122B  
SPRINGFIELD, ILLINOIS  
11:00 A.M.  
OCTOBER 14, 2009

**NOTICES:** The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: jcar@ilga.gov  
Phone: 217/785-2254*

**RULEMAKINGS CURRENTLY BEFORE JCAR**

**PROPOSED RULEMAKINGS**

Aging

1. Community Care Program (89 Ill. Adm. Code 240)
  - First Notice Published: 33 Ill. Reg. 5948 – 4/24/09
  - Expiration of Second Notice: 10/31/09

Carnival Amusement Safety Board

2. Carnival and Amusement Ride Safety Act (56 Ill. Adm. Code 6000)
  - First Notice Published: 33 Ill. Reg. 1836 – 2/6/09

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
OCTOBER AGENDA

-Expiration of Second Notice: 11/4/09

Central Management Services

3. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 33 Ill. Reg. 10098 – 7/17/09
  - Expiration of Second Notice: 10/17/09
4. Merit and Fitness (80 Ill. Adm. Code 302)
  - First Notice Published: 33 Ill. Reg. 9208 – 7/6/09
  - Expiration of Second Notice: 10/15/09

Education

5. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
  - First Notice Published: 33 Ill. Reg. 7587 – 6/12/09
  - Expiration of Second Notice: 11/4/09
6. New Teacher Induction and Mentoring (23 Ill. Adm. Code 65)
  - First Notice Published: 33 Ill. Reg. 6250 – 5/1/09
  - Expiration of Second Notice: 11/4/09
7. Pupil Transportation Reimbursement (23 Ill. Adm. Code 120)
  - First Notice Published: 33 Ill. Reg. 9265 – 7/6/09
  - Expiration of Second Notice: 11/4/09
8. Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)
  - First Notice Published: 33 Ill. Reg. 9279 – 7/6/09
  - Expiration of Second Notice: 11/4/09
9. Driver Education (23 Ill. Adm. Code 252)
  - First Notice Published: 33 Ill. Reg. 9287 – 7/6/09
  - Expiration of Second Notice: 11/4/09
10. Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401)
  - First Notice Published: 33 Ill. Reg. 9299 – 7/6/09
  - Expiration of Second Notice: 11/4/09
11. Providers of Supplemental Educational Services (23 Ill. Adm. Code 675)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
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- First Notice Published: 33 Ill. Reg. 9305 – 7/6/09
- Expiration of Second Notice: 11/4/09

Elections

12. Campaign Financing (26 Ill. Adm. Code 100)
  - First Notice Published: 33 Ill. Reg. 9597 – 7/10/09
  - Expiration of Second Notice: 11/11/09

Environmental Protection Agency

13. Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365)
  - First Notice Published: 33 Ill. Reg. 7957 – 6/19/09
  - Expiration of Second Notice: 10/28/09
14. Procedures for Providing Financial Assistance from the Water Pollution Control Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 369)
  - First Notice Published: 33 Ill. Reg. 7960 – 6/19/09
  - Expiration of Second Notice: 10/28/09
15. Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)
  - First Notice Published: 33 Ill. Reg. 7964 – 6/19/09
  - Expiration of Second Notice: 10/28/09
16. Procedures for Providing Financial Assistance from the Public Water Supply Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 664)
  - First Notice Published: 33 Ill. Reg. 7967 – 6/19/09
  - Expiration of Second Notice: 10/28/09

Healthcare and Family Services

17. Special Eligibility Groups (89 Ill. Adm. Code 118)
  - First Notice Published: 33 Ill. Reg. 10199 – 7/17/09
  - Expiration of Second Notice: 11/8/09
18. Medical Assistance Programs (89 Ill. Adm. Code 120)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
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-First Notice Published: 33 Ill. Reg. 10201 – 7/17/09  
-Expiration of Second Notice: 11/8/09

19. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 33 Ill. Reg. 5178 – 4/10/09
  - Expiration of Second Notice: 11/8/09
20. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 33 Ill. Reg. 10204 – 7/17/09
  - Expiration of Second Notice: 11/8/09

Human Services

21. Vending Facility Program for the Blind (89 Ill. Adm. Code 650)
  - First Notice Published: 33 Ill. Reg. 6621 – 5/15/09
  - Expiration of Second Notice: 10/15/09
22. General Administrative Provisions (89 Ill. Adm. Code 10)
  - First Notice Published: 33 Ill. Reg. 7244 – 6/5/09
  - Expiration of Second Notice: 10/22/09
23. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
  - First Notice Published: 33 Ill. Reg. 7274 – 6/5/09
  - Expiration of Second Notice: 10/17/09
24. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)
  - First Notice Published: 33 Ill. Reg. 7277 – 6/5/09
  - Expiration of Second Notice: 10/17/09
25. General Assistance (89 Ill. Adm. Code 114)
  - First Notice Published: 33 Ill. Reg. 7280 – 6/5/09
  - Expiration of Second Notice: 10/17/09
26. Food Stamps (89 Ill. Adm. Code 121)
  - First Notice Published: 33 Ill. Reg. 6009 – 4/24/09
  - Expiration of Second Notice: 10/17/09
27. Food Stamps (89 Ill. Adm. Code 121)
  - First Notice Published: 33 Ill. Reg. 7283 – 6/5/09
  - Expiration of Second Notice: 10/17/09

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
OCTOBER AGENDA

Natural Resources

28. Illinois Prescribed Burning Act (17 Ill. Adm. Code 1565)  
-First Notice Published: 33 Ill. Reg. 8054 – 6/19/09  
-Expiration of Second Notice: 10/14/09
29. Consignment of Licenses, Stamps and Permits (17 Ill. Adm. Code 2520)  
-First Notice Published: 33 Ill. Reg. 7541 – 6/12/09  
-Expiration of Second Notice: 10/24/09

Pollution Control Board

30. Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)  
-First Notice Published: 33 Ill. Reg. 8880 – 6/26/09  
-Expiration of Second Notice: 11/11/09

Racing Board

31. Jockeys, Apprentices, Jockey Agents, and Valets (11 Ill. Adm. Code 1411)  
-First Notice Published: 33 Ill. Reg. 8153 – 6/19/09  
-Expiration of Second Notice: 10/30/09

Revenue

32. Income Tax (86 Ill. Adm. Code 100)  
-First Notice Published: 33 Ill. Reg. 11201 – 7/31/09  
-Expiration of Second Notice: 11/4/09
33. Retailers' Occupation Tax (86 Ill. Adm. Code 130)  
-First Notice Published: 33 Ill. Reg. 9252 – 7/6/09  
-Expiration of Second Notice: 10/30/09
34. Retailers' Occupation Tax (86 Ill. Adm. Code 130)  
-First Notice Published: 33 Ill. Reg. 11230 – 7/31/09  
-Expiration of Second Notice: 11/4/09

Secretary of State

35. Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
OCTOBER AGENDA

- First Notice Published: 33 Ill. Reg. 10959 – 7/24/09
- Expiration of Second Notice: 10/23/09

36. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)
- First Notice Published: 33 Ill. Reg. 9560 – 7/10/09
  - Expiration of Second Notice: 10/14/09

Teachers' Retirement System

37. The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)
- First Notice Published: 33 Ill. Reg. 8160 – 6/19/09
  - Expiration of Second Notice: 10/30/09

Transportation

38. Roadside Memorials (92 Ill. Adm. Code 549)
- First Notice Published: 33 Ill. Reg. 10207 – 7/17/09
  - Expiration of Second Notice: 10/16/09
39. Selection of Architect-Engineer Consultant Firms (44 Ill. Adm. Code 625)
- First Notice Published: 33 Ill. Reg. 11079 – 7/24/09
  - Expiration of Second Notice: 10/23/09

**EMERGENCY RULEMAKINGS**

Capital Development Board

40. Illinois Energy Conservation Code (71 Ill. Adm. Code 600)
- Notice Published: 33 Ill. Reg. 12407 – 9/4/09

Education

41. Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 Ill. Adm. Code 100)
- Notice Published: 33 Ill. Reg. 12589 – 9/11/09

Human Services

42. Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
OCTOBER AGENDA

Facilities and Community Agencies (59 Ill. Adm. Code 50)

-Notice Published: 33 Ill. Reg. 13489 – 9/25/09

43. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)

-Notice Published: 33 Ill. Reg. 12850 – 9/18/09

Racing Board

44. Advance Deposit Wagering (ADW) (11 Ill. Adm. Code 325)

-Notice Published: 33 Ill. Reg. 12860 – 9/18/09

**PEREMPTORY RULEMAKING**

Central Management Services

45. Pay Plan (80 Ill. Adm. Code 310)

-Notice Published: 33 Ill. Reg. 12872 – 9/18/09

**AGENCY RESPONSES**

Human Services

46. Provider Requirements, Type Services, and Rates of Payment (89 Ill. Adm. Code 686; 33 Ill. Reg. 7017)

Natural Resources

47. Dam Safety Requirements (17 Ill. Adm. Code 3703; 32 Ill. Reg. 14445)

Public Health

48. Community Health Center Expansion (77 Ill. Adm. Code 975; 33 Ill. Reg. 3940)

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 September 22, 2009 through September 28, 2009 and have been scheduled for review by the Committee at its October 14, 2009 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
11/8/09	<u>Department of Healthcare and Family Services, Special Eligibility Groups (89 Ill. Adm. Code 118)</u>	7/17/09 33 Ill. Reg. 10199	10/14/09
11/8/09	<u>Department of Healthcare and Family Services, Medical Assistance Programs (89 Ill. Adm. Code 120)</u>	7/17/09 33 Ill. Reg. 10201	10/14/09
11/8/09	<u>Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)</u>	4/10/09 33 Ill. Reg. 5178	10/14/09
11/8/09	<u>Department of Healthcare and Family Services, Medical Payment (89 Ill. Adm. Code 140)</u>	7/17/09 33 Ill. Reg. 10204	10/14/09
11/11/09	<u>Pollution Control Board, Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)</u>	6/26/09 33 Ill. Reg. 8880	10/14/09
11/11/09	<u>State Board of Elections, Campaign Financing (26 Ill. Adm. Code 100)</u>	7/10/09 33 Ill. Reg. 9597	10/14/09

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 33, Issue 41 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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LAW TO BE PUBLISHED IN THE  
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