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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 peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
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11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
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30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
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44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

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 15, 2014 until January 2, 2015.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Definitions and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.7150 Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 9.1, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of November 20, 2014, proposing amendments in docket R15-5 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

The R15-5 proceeding relates to the listings of compounds exempted from the State definition of "volatile organic material" (VOM) or "volatile organic compound" (VOC) in 35 Ill. Adm. Code 211.7150 of the Illinois air pollution control rules. These amendments would update the definition of to correspond with amendments to the corresponding definition of VOC in the federal regulations at 40 C.F.R. 51.100(s) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2014 through June 30, 2014. During this period, USEPA amended its definition of VOC as follows:

March 27, 2014
(79 Fed. Reg. 17037)

USEPA exempted 2-amino-2-mehtyl-1-propanol
(also called AMP) (CAS 124-68-5) from the
definition of VOM.

A table appears in the Board's opinion and order of November 20, 2014 in docket R15-5 that lists the deviation from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the November 20, 2014 opinion and order in docket R15-5.

Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 11) Are there any other rulemakings pending on this Part? No
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R15-5 and be addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

The Board will conduct one public hearing on the proposed amendments because they will ultimately result in submission to the United States Environmental Protection Agency of an amendment to the state implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 U.S.C. § 7410(a)(2) (2006)) requires reasonable notice and hearing before a state undertakes an amendment to the SIP. The public hearing will occur by videoconference between the Board's offices in Chicago and Springfield at the following time and locations:

1:45 p.m., January 8, 2015
Room 11-512

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

James R. Thompson Center
100 W. Randolph St.
Chicago IL 60601

And

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

Please direct inquiries to the following person and reference docket R15-5:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that use or emit the affected chemicals that are proposed for deletion from the definition of VOM. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports, and maintenance of operating records. These proposed amendments do not create or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory Agenda on which this rulemaking was summarized: 38 Ill. Reg. 13977; 13982-84 (July 7, 2014)

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCESPART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

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211.101	Incorporated and Referenced Materials
211.102	Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	
211.121	Other Definitions
211.122	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.200	Acrylonitrile Butadiene Styrene (ABS) Welding
211.210	Actual Heat Input
211.230	Adhesive
211.233	Adhesion Primer
211.235	Adhesive Primer
211.240	Adhesion Promoter
211.250	Aeration
211.260	Aerosol Adhesive and Adhesive Primer
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment

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211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.479	Allowance
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211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
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211.493	Antifouling Sealer/Tie Coat
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.540	Architectural Structure
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
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211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
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211.665	Auxiliary Boiler
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211.680	Bakery Oven
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211.4900	Porous Material
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5012	Prefabricated Architectural Coating
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln

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211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Coating
211.5062	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5075	Primer Sealant
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5140	Printed Interior Panel
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5195	Process Heater
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5335	Radiation Effect Coating
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5400	Red Coating
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure

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211.5520	Reinforced Plastic Composite
211.5530	Repair
211.5535	Repair Cleaning
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5585	Research and Development Operation
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5800	Rubber
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5860	Scientific Instrument
211.5870	Screening
211.5875	Screen Printing
211.5880	Screen Printing on Paper
211.5885	Screen Reclamation
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5985	Sheet Rubber Lining Installation
211.5987	Shock-Free Coating
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat

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211.6012	Silicone-Release Coating
211.6015	Single-Ply Roof Membrane
211.6017	Single-Ply Roof Membrane Adhesive Primer
211.6020	Single-Ply Roof Membrane Installation and Repair Adhesive
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6063	Solar-Absorbent Coating
211.6065	Solids Turnover Ratio (R_T)
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6405	Sterilization Indicating Ink
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6425	Stripping
211.6427	Structural Glazing
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit

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211.6460	Subfloor
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6535	Surface Preparation
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6585	Thin Metal Laminating Adhesive
211.6587	Thin Particleboard
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6635	Tileboard
211.6640	Tire Repair
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6740	Translucent Coating
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6780	Trunk Interior Coating
211.6790	Turnaround
211.6810	Two-Piece Can
211.6825	Underbody Coating
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6885	Vacuum Metalizing Coating
211.6890	Vacuum Producing System

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211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7220	Waterproof Resorcinol Glue
211.7230	Weak Nitric Acid Manufacturing Process
211.7240	Weatherstrip Adhesive
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective

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July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391, effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12876, effective June 9, 2014; amended in R14-16 at 39 Ill. Reg. _____, effective

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SUBPART B: DEFINITIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

- a) This definition of VOM includes any organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity. USEPA has excluded the listed negligibly-reactive compounds from the definition of VOM for purposes of VOM limitations or VOM content requirements. However, USEPA has required that certain of these compounds be considered VOM for purposes of recordkeeping, emissions reporting, and inventory requirements, as described in subsection (e) of this Section.

Acetone (2-propanone or dimethylketone)

[2-Amino-2-methyl-1-propanol](#)

Bis(difluoromethoxy)(difluoro)methane ($\text{CHF}_2\text{OCF}_2\text{OCHF}_2$ or HFE-236cal2)

1,2-Bis(difluoromethoxy)-1,1,2,2-tetrafluoroethane
($\text{CHF}_2\text{OCF}_2\text{CF}_2\text{OCHF}_2$ or HFE-338pcc13)

tertiary-Butyl acetate

1-Chloro-1,1-difluoroethane (HCFC-142b)

Chlorodifluoromethane (CFC-22)

1-Chloro-1-fluoroethane (HCFC-151a)

Chlorofluoromethane (HCFC-31)

Chloropentafluoroethane (CFC-115)

2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

trans-1-chloro-3,3,3-trifluoroprop-1-ene

1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethyl-pentane
(HFE-7300, L-14787, or $\text{C}_2\text{F}_5\text{CF}(\text{OCH}_3)\text{CF}(\text{CF}_3)_2$)

1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee)

Dichlorodifluoromethane (CFC-12)

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1,1-Dichloro-1-fluoroethane (HCFC-141b)
3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a)
1,1-Difluoroethane (HFC-152a)
Difluoromethane (HFC-32)
(Difluoromethoxy)(difluoro)methane ($\text{CHF}_2\text{OCHF}_2$ or HFE-134)
1-(Difluoromethoxy)-2-[(difluoromethoxy)(difluoro)methoxy]-1,1,2,2-tetrafluoroethane ($\text{CHF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCHF}_2$ or HFE-43-10pccc)
2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(\text{CF}_3)_2\text{CFCF}_2\text{OCH}_3$)
Dimethyl carbonate
Ethane
2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane
($(\text{CF}_3)_2\text{CFCF}_2\text{OC}_2\text{H}_5$)
3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane
(HFE-7500)
1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ or HFE-7200)
Ethylfluoride (HFC-161)
1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane ($n\text{-C}_3\text{F}_7\text{OCH}_3$ or HFE-7000)
1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea)
1,1,1,2,3,3-Hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-Hexafluoropropane (HFC-236fa)
Methane
Methyl acetate
Methylene chloride (dichloromethane)
Methyl formate (CHOOCH_3)
1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane ($\text{C}_4\text{F}_9\text{OCH}_3$ or HFE-7100)
Parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3-Pentafluorobutane (HFC-365mfc)
Pentafluoroethane (HFC-125)
1,1,2,2,3-Pentafluoropropane (HFC-245ca)
1,1,2,3,3-Pentafluoropropane (HFC-245ea)
1,1,1,2,3-Pentafluoropropane (HFC-245eb)
1,1,1,3,3-Pentafluoropropane (HFC-245fa)
Perchloroethylene (tetrachloroethylene)
Perfluorocarbon compounds that fall into the following classes:
Cyclic, branched, or linear, completely fluorinated alkanes

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Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

Propylene carbonate (4-methyl-1,3-dioxolan-2-one)

Siloxanes: cyclic, branched, or linear completely-methylated

1,1,2,2-Tetrafluoroethane (HFC-134)

1,1,1,2-Tetrafluoroethane (HFC-134a)

trans-1,3,3,3-Tetrafluoropropene (HFO-1234ze)

2,3,3,3-Tetrafluoropropene (HFO-1234yf)

1,1,1-Trichloroethane (methyl chloroform)

Trichlorofluoromethane (CFC-11)

1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113)

1,1,1-Trifluoro-2,2-dichloroethane (HCFC-123)

1,1,1-Trifluoroethane (HFC-143a)

Trifluoromethane (HFC-23)

- b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR 51, subpart I or appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such

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determination is not reflected in any of the test methods in subsection (b) [of this Section](#) above.

- e) The following compound is VOM for the purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOM, and it must be uniquely identified in emission reports, but it is not VOM for the purposes of VOM emissions limitations or VOM content requirements: t-butyl acetate.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Air Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 243
- 3) Section Number: 243.108 Proposed Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of November 20, 2014, proposing amendments in docket R15-4 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

The R15-4 proceeding relates to the Illinois ambient air quality requirements in 35 Ill. Adm. Code 243 of the Illinois air pollution control rules. These amendments would update the Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2014 through June 30, 2014. The Federal NAAQS are codified at 40 C.F.R. 50. During this period, USEPA designated four new equivalent methods as follows:

June 18, 2014 (79 Fed. Reg. 34734)	USEPA designated one new equivalent method for Nitrogen oxides (NOX), two new equivalent methods for ozone (O3), and one new equivalent method for lead (Pb) in ambient air.
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USEPA subsequently designated two new reference methods and two new equivalent methods as follows:

November 4, 2014 (79 Fed. Reg. 65392)	USEPA designated one new reference method for fine particulates (PM2.5), one new reference method for coarse particulates (PM10-2.5), one new equivalent method for ozone (O3), and one new equivalent method for carbon monoxide (CO) in ambient air.
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The Board has decided to add the November 4, 2014 USEPA action to this rulemaking for the purpose of administrative economy.

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A table that appears in the Board's opinion and order of November 20, 2014 in docket R15-4 contain deviations from the literal text of the federal actions underlying these amendments. Persons interested in the details of those corrections and amendments should refer to the November 20, 2014 opinion and order in docket R15-4.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 11) Are there any other rulemakings pending on this Part? No
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R15-4 and be addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

The Board will conduct one public hearing on the proposed amendments because they will ultimately result in submission to the United States Environmental Protection

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Agency of an amendment to the state implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 U.S.C. § 7410(a)(2) (2006)) requires reasonable notice and hearing before a state undertakes an amendment to the SIP. The public hearing will occur by videoconference between the Board's offices in Chicago and Springfield at the following time and locations:

1:30 p.m., January 8, 2015
Room 11-512
James R. Thompson Center
100 W. Randolph St.
Chicago

And

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

Please direct inquiries to the following person and reference docket R15-4:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that emit pollutants that could potentially affect ambient air quality in any area of Illinois. These proposed

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amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports, and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory Agenda on which this rulemaking was summarized: 38 Ill. Reg. 13977; 13990-92 (July 7, 2014)

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER I: AIR QUALITY STANDARDS AND EPISODESPART 243
AIR QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section

243.101	Definitions
243.102	Scope
243.103	Applicability
243.104	Nondegradation (Repealed)
243.105	Air Quality Monitoring Data Influenced by Exceptional Events
243.106	Monitoring (Repealed)
243.107	Reference Conditions
243.108	Incorporations by Reference

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section

243.120	PM ₁₀ and PM _{2.5}
243.121	Particulates (Repealed)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	Nitrogen Oxides (Nitrogen Dioxide as Indicator)
243.125	Ozone
243.126	Lead
243.APPENDIX A	Rule into Section Table (Repealed)
243.APPENDIX B	Section into Rule Table (Repealed)
243.APPENDIX C	Past Compliance Dates (Repealed)
243.TABLE A	Schedule of Exceptional Event Flagging and Documentation Submission for New or Revised NAAQS

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10, and 27].

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SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, filed and effective April 14, 1972; amended in R80-11, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013; amended in R14-6 at 37 Ill. Reg. 19848, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12900, effective June 9, 2014; amended in R15-4 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 243.108 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

Government Printing Office (GPO), 732 Capitol Street NW, Washington, DC 20401 (telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov).
The following documents incorporated by reference are available from this source:

Appendix A-1 to 40 CFR 50 (2013) (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 (2013) (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 (2013) (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50 (see below).

Appendix C to 40 CFR 50 (2013) (Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

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Appendix D to 40 CFR 50 (2013) (Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 (2013) (Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 (2013), as amended at 78 Fed. Reg. 40000 (July 3, 2013) (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix H to 40 CFR 50 (2013) (Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix I to 40 CFR 50 (2013) (Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix J to 40 CFR 50 (2013) (Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 (2013) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 (2013) (Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere), referenced in Section 243.120.

Appendix N to 40 CFR 50 (2013), as amended at 78 Fed. Reg. 47191 (August 5, 2013) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

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Appendix O to 40 CFR 50 (2013) (Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 (2013) (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 (2013) (Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 (2013) (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

Appendix S to 40 CFR 50 (2013) (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

Appendix T to 40 CFR 50 (2013) (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide)), referenced in Section 243.122.

Clean Air Act, 42 USC 7401 et seq. (2011) (for definitions of terms only), referenced in Section 243.102.

BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.

USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division (MD-D205-03), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:

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"List of Designated Reference and Equivalent Methods" ([June 18, 2014](#))~~([December 17, 2013](#))~~ (referred to as the "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126.

This incorporation by reference ~~does not include~~ includes USEPA methods designations included in the following Federal Register notice: [approvals that occurred after December 17, 2013.](#)

[79 Fed. Reg. 65392 \(Nov. 4, 2014\) \(designation of two new FRMs and two new FEMs\).](#)

BOARD NOTE: The List of Designated Methods is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
245.20	Amendment
245.30	Amendment
245.40	Amendment
245.71	Amendment
245.75	Amendment
245.80	Amendment
245.90	Amendment
245.95	Amendment
245.200	Amendment
245.205	Amendment
245.210	Amendment
245.212	Amendment
245.214	Amendment
245.220	Amendment
245.225	Amendment
245.240	Amendment
245.250	Amendment
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) A Complete Description of the Subjects and Issues Involved: The Home Health, Home Services, and Home Nursing Agency Code regulates home health agencies, home nursing agencies, home services agencies, and home nursing and home services placement agencies. Rules adopted in 2008 implemented then-new statutory requirements for home nursing agencies, home services agencies, and placement agencies for home nursing and home services workers. These amendments are meant to clarify the distinction between home nursing and home services agencies, and nursing and services placement agencies, and to delineate the respective obligations and responsibilities of each kind of agency.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

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The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Administrative Rules Coordinator
Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Home health, home nursing, and home services agencies
 - B) Reporting, bookkeeping or other procedures required for compliance: Reporting of quality improvement procedures and keeping of staff and client records

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- C) Types of professional skills necessary for compliance: Nursing
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on the last two regulatory agendas because the need for the rulemaking was not anticipated at the time the regulatory agendas were drafted.

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245
HOME HEALTH, HOME SERVICES,
AND HOME NURSING AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section	Purpose
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services (Repealed)
245.55	Vaccinations
245.60	Annual Financial Statement
245.70	Home Health Aide Training
245.71	Qualifications and Requirements for Home Services Workers
245.72	Health Care Worker Background Check
245.75	Infection Control

SUBPART C: LICENSURE PROCEDURES

Section	Purpose
245.80	Licensure Required
245.90	License Application
245.95	License Application Fee, Single or Multiple Licenses
245.100	Provisional License
245.110	Inspections and Investigations
245.115	Complaints
245.120	Violations
245.130	Adverse Licensure Actions

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- 245.140 Penalties and Fines
- 245.150 Hearings

SUBPART D: CLIENT/PATIENT SERVICES

- 245.200 Services – Home Health
- 245.205 Services – Home Nursing Agencies
- 245.210 Services – Home Services Agencies
- 245.212 Services – Home Nursing Placement Agency
- 245.214 Services – Home Services Placement Agency
- 245.220 Client Service Contracts – Home Nursing and Home Services Agencies
- 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency
- 245.240 Quality Improvement Program
- 245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

AUTHORITY: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007; amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010; amended at 39 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health, Home Services and Home Nursing Agency Licensing Act ~~[210 ILCS 55]~~.

Activities of Daily Living – include, but are not limited to, eating, dressing, bathing, toileting, transferring, or personal hygiene.

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, ~~in order~~ to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Agency – a home health agency, home nursing agency, or home services agency, unless specifically stated otherwise. (Section 2.03a of the Act)

Agency Manager – the individual designated by the governing body or the entity legally responsible for the agency, who has overall responsibility for the organization and day-to-day operation of the home services or home nursing agency.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act ~~[225 ILCS 110]~~.

Branch Office – a location or site from which an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch to be independently licensed.

Bylaws or Equivalent – a set of rules adopted by an agency for governing the agency's operation.

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Client – an individual receiving services from a home nursing agency, a home services agency or a placement agency. This term includes the service recipient's advocate or designee.

Client Record – a written or electronic record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between the client and the home services agency, a copy of the home services contract or agreement, and documentation of the services provided at each visit.

Clinical Note – a dated, written notation or electronic entry by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or emotional condition.

Clinical Record – an accurate account of services and care provided for each patient and maintained by a home health or home nursing agency in accordance with accepted professional standards.

Companionship – services that provide fellowship, care and protection for a client who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Services requested may include, but are not limited to, household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.

Department or IDPH – the Department of Public Health of the State of Illinois.
(Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his or her designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved, and final disposition at the time of discharge from service of a home health or home nursing agency.

Employee – a person who works in the service of another person, or company, under an express or implied contract of hire, under which the employer has the right to control the details of work performance for wages, salary, fee or payment~~an individual for whom an agency licensed under this Part pays withholding taxes.~~

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Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which home health agency patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Health Care Professional – a physician licensed to practice medicine in all of its branches, a podiatrist, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes services under the Act, or a physician assistant who has been delegated the authority to perform services under the Act by his or her supervising physician.

Home Health Agency – a public agency or private organization that provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

Home Health Agency Administrator – an employee of the home health agency who is any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in Section 600.300 of the Certified Local Health Department Code.

Home Health Aide – a person who provides nursing, medical, or personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 ~~of this Part~~.

Home Health Services – services provided to a person at his or her residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services

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and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing and home health aide services to persons in their personal residences. A home nursing agency provides services that would ~~be required to be performed by~~ ~~require~~ an individual licensed under the Nurse Practice Act ~~to perform~~. Home health aide services are provided under the direction of a registered professional nurse or advanced practice nurse. A home nursing agency does not require licensure as a home health agency under the Act. "Home nursing agency" does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)

Home Nursing Services – services that would be required to be performed by an individual licensed under the Nurse Practice Act on a shift schedule, one-time, full-time or part-time, and/or intermittent basis.

Home Services Agency – an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers primarily in their personal residences. Home services agency does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging or the Department of Human Services Office of Rehabilitation Services ~~or the United States Department of Veterans Affairs~~ are not considered to be a home services agency under ~~the~~ ~~the~~ Act. (Section 2.08 of the Act)

Home Services or In-Home Services or In-Home Support Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home services" does not include services that would be required to be performed by an individual licensed under the Nurse

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Practice Act. (Section 2.09 of the Act) Home care services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

Home Services Worker or In-Home Services Worker – an individual who provides home care services to a consumer in the consumer's personal residence. (Section 2.10 of the Act) The terms homemaker and companion are commonly used to refer to this type of worker.

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nurse Practice Act.

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act.

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act and meets either or both of the following requirements:

Isis a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

Isis eligible for the National Registration Examination of the American Occupational Therapy Association.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association.

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health or home nursing services to

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maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or, for home health agencies, to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Personal Care Services – services that are furnished to a client in the client's personal residence to meet the client's physical, maintenance, and supportive needs, when those services are not considered skilled personal care, as described in this Section and Part, and do not require a physician's orders or the supervision of a nurse.

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. ~~An~~Such an emergency may not extend more than six months in any case.

Placement Agency – any person engaged for gain or profit, regardless of the agency tax status, in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. The term includes a

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private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. The term does not include a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12 of the Act) For the purposes of this Part, there are two types of placement agencies: Home Nursing Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214). [A placement agency does not provide ongoing, continuous client support and management of services.](#)

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with, in the case of a home health agency, the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient, and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987.

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the home health agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nurse Practice Act.

Skilled Nursing Services – those services that, due to their nature and scope, would require the performing individual to be licensed under the Nurse Practice

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Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing diagnosis; planning, implementation and nursing evaluation; counseling; ~~and/or~~ patient education; health education; the administration of medications and treatments; and the coordination and/or management of a nursing or medical plan of care.

Skilled Personal Care – personal care that may be provided only by a home health aide, as defined in this Section, or an individual who is a certified or licensed health care professional under the laws of the State of Illinois.

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting.

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act.

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial Compliance or Substantially Meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization that serves patients in a geographic area different from that of the parent agency. ~~Because of~~~~The subunit, by virtue of~~ the distance between ~~the subunit~~ and the agency, ~~the subunit is considered to beis judged~~ incapable of sharing administration, supervision and services.

Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's

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physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

- a) **Governing Body – All Agencies**
The agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the agency. Where the governing body of a large organization is functionally remote from the operation of the agency, the Department may approve the designation of an intermediate level "governing body". For the purposes of this Section, the governing body shall:
- 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and, for home health agencies, to the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency;~~;~~
 - 2) Employ a qualified administrator for home health agencies;~~;~~
 - 3) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency;~~;~~
 - 4) Meet to review the operation of the agency;~~;~~
 - 5) Keep minutes of all meetings; ~~and;~~
 - 6) Provide and maintain an office facility adequately equipped for efficient work, and confidentiality of patient and/or client records, and that provides a safe working environment in compliance with local ordinances and fire regulations.
- b) **Administration – All Agencies**

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- 1) The agency shall have written administrative policies and procedures to ensure that the patient or client is provided~~the provision of~~ safe and adequate care ~~of the patient or client~~.
 - 2) The agency shall show evidence of liability insurance in accordance with Section 245.90(a).
 - 3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocates in regard to services being provided to the patient/client.
- c) Personnel Policies – All Agencies (Placement agencies shall meet the requirements of subsections (c)(1)(B), (2), (3) and (4).)
- 1) Personnel policies applicable and available to all full- and part-time employees shall include, but not be limited to, the following:
 - A) Wage scales, ~~fringe~~ benefits, hours of work and leave time;
 - B) Requirements for an initial health evaluation of each new employee or the placed home services worker/placed nurse who has contact with clients/patients, as specified by the governing body;
 - C) Orientation to the agency and appropriate continuing education;
 - D) Job descriptions for all positions used~~utilized~~ by the agency;
 - E) Annual performance evaluation for all employees;
 - F) Compliance with all applicable requirements of the Civil Rights Act of 1964;
 - G) Confidentiality~~Provision for confidentiality~~ of personnel records;
 - H) Employee health policies that require employees to report health symptoms and exposure to any communicable or infectious disease, and that specify conditions under which employees are to

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be removed from patient or client contact and conditions under which employees may resume patient/client contact; and

- D) Agency procedures ~~for~~ identifying potential dangers to the health and safety of agency personnel providing services in the home and procedures for protecting agency personnel from identified dangers.
- 2) Prior to employing or placing any individual in a position that requires a State professional license, the agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active. A copy of the verification of the individual's license shall be placed in the individual's personnel file.
- 3) The agency shall, prior to hiring, check the status of employee or placement prospects who have direct patient/client care responsibilities with the Department's Health Care Worker Registry concerning findings of abuse, neglect or misappropriation of property~~prior to hiring~~.
- 4) Personnel records for all employees ~~or~~ placement agency registry files for placement workers shall include the name and address of the employee or placement worker, Social Security number, date of birth, name and address of next of kin, evidence of qualifications (including any current licensure, registration, or certification that is required by State or federal law for the functions performed), and dates of employment or placement and separation from the agency and the reason for separation.
- 5) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that is required by State or federal law for the functions performed, under the supervision of the agency.
- 6) Home services and home nursing agencies that use some contractual services shall ensure that these services are provided by qualified personnel who hold any current licensure, registration or certification that is required by State or federal law for the functions performed under the supervision of the agency.

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- d) Professional Advisory Group – Home Health Agencies
- 1) The professional advisory group shall be appointed by the governing body and shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. ~~Policies~~~~These policies~~ and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the governing body. ~~Policies~~~~These policies~~ and procedures shall include, but are not limited to:
 - A) Administration and supervision of the home health agency and the home health services it provides;
 - B) Criteria for the acceptance, non-acceptance, and discharge of patients;
 - C) Home health services;
 - D) Medical supervision and plans of treatment;
 - E) Patient care plans;
 - F) Clinical records;
 - G) Personnel data;
 - H) Evaluation; and
 - I) Coordination of services.
 - 2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.
- e) Agency Supervision – Home Health Agencies

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- 1) The governing body shall appoint a Home Health Administrator with the duties prescribed in Section 245.40.
- 2) The home health agency shall designate an agency supervisor with one of the following sets of qualifications to supervise the provision of home health services:
 - A) A registered nurse who:
 - i) Has completed a baccalaureate degree program approved by the National League for Nursing; and
 - ii) Has at least one year of nursing experience;
 - B) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience that meets the following requirements:
 - i) At least two years of the nursing experience must have been in: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.
 - ii) At least two years of the three years of nursing experience must have been obtained within five years prior to current employment with the home health agency.
- 3) The agency supervisor shall be a full-time registered nurse who is available at all times during operating hours of the agency and who participates in all activities related to providing relevant to the provision of home health services. The agency supervisor shall designate a qualified staff member to act in his or her absence.
- 4) Any person employed as an agency supervisor prior to July 1, 1983, who does not meet the qualifications for agency supervisor that were in effect prior to October 1, 1983, may continue to serve in that capacity only at that agency.

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- 5) No one person may hold the positions of both home health agency administrator and agency supervisor.
 - 6) If the licensed home health agency also is licensed as a home nursing agency, the agency supervisor may supervise the provision of skilled nursing services in the home nursing agency only if there are equally qualified individuals available in each licensed component of the organization to act in his or her absence.
- f) Agency Supervisor Responsibilities – Home Health Agency
- 1) The entire clinical program shall be under the direction of the agency supervisor. The agency shall organize the personnel and clinical activities of the home health agency ~~so in such a way that the organization will facilitate the provision of~~ safe and adequate care ~~will be provided~~ to the patient.
 - 2) The skilled nursing service of a home health agency shall be under the direction of the agency supervisor.
 - 3) The agency supervisor shall be responsible for:
 - A) ~~Supervising~~~~The overall supervision of~~ all registered nurses, licensed practical nurses, home health aides, therapists, social workers and other clinical personnel employed by the agency or with whom the agency contracts for services;
 - B) Assuring that ~~all staff providing patient care maintain~~ the professional standards of community nursing practice ~~are maintained by all staff providing patient care~~;
 - C) Maintaining and adhering to agency procedure and patient care policy manuals;
 - D) ~~Participating in establishing~~~~Participation in the establishment of~~ service policies and procedures;

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- E) ~~Participating in selecting and evaluating~~Participation in the selection and evaluation of nursing personnel and ~~of~~ other staff providing patient care;
 - F) ~~Coordinating~~Coordination of patient care services;
 - G) Keeping and maintaining records of case assignments and case management;
 - H) ~~Preparing and maintaining~~Preparation and maintenance of the schedule of cases to be brought to the clinical record review committee; and
 - D) ~~Conducting~~The conduct of selective program evaluations to improve deficient services and developing and implementing~~the development and implementation of~~ plans of correction.
- g) Agency Manager – Home Services and Home Nursing Agencies
- 1) A home services agency shall designate a person to supervise the provision of services or to oversee the placement of workers through the licensed home services agency.
 - 2) If the home nursing agency has appointed an agency manager who is not a registered nurse or an advanced practice nurse, the home nursing agency shall identify a registered nurse or advanced practice nurse ~~who is responsible~~ to supervise the provision of skilled nursing services as required by Section 2.11 of the Act. The supervisor shall be a full-time registered nurse who is available at all times during the operating hours of the agency and who participates in all activities related to the provision of home nursing services.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.40 Staffing and Staff Responsibilities

- a) Home Health Administrator/Agency Manager. The administrator ~~and~~/or agency manager shall have the following responsibilities:

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- 1) Ensure that the agency is in compliance with all applicable federal, State and local laws;:-
 - 2) Be familiar with the applicable rules of the Department and maintain them within the agency;:-
 - 3) Familiarize all employees as well as providers through contractual purchase of services with the Act and the rules of the Department and make copies available for their use;:-
 - 4) Ensure ~~that the completion, maintenance and submission of such~~ reports and records as required by the Department are completed, maintained and submitted;:-
 - 5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community;:-
 - 6) Maintain a current organizational chart to show lines of authority down to the patient or client level;:-
 - 7) Manage~~Have the authority for the management of the~~ business affairs and the overall operation of the agency;:-
 - 8) Maintain ~~appropriate~~ personnel records, administrative records and all policies and procedures of the agency;:-
 - 9) Employ qualified personnel in accordance with job descriptions;:-
 - 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff; and:-
 - 11) Designate in writing the qualified staff member to act in the absence of the administrator.
- b) Home Health Aide
- 1) When home health aide services are offered, the services shall be under the supervision of a registered nurse in accordance with the plan of treatment. The registered nurse shall assign the home health aide ~~is~~

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~~assigned to a particular patient by a registered nurse. The registered nurse or the appropriate therapist shall prepare written~~ Written instructions for patient care ~~are prepared by a registered nurse or the appropriate therapist.~~

- 2) Duties of the home health aide may include:
 - A) ~~Performing~~ The performance of simple procedures as an extension of therapeutic services; ~~;~~
 - B) Skilled personal care and personal ~~Personal~~ care, as defined in this Part; ~~;~~
 - C) Patient ambulation ~~Ambulation~~ and exercise; ~~of the patient.~~
 - D) Household services essential to health care at home; ~~;~~
 - E) Assisting ~~Assistance~~ with medications that are ordinarily self-administered; ~~;~~
 - F) Reporting changes in the patient's/client's condition and needs to the registered nurse or the appropriate therapist; and ~~;~~
 - G) Completing ~~Completion of~~ appropriate records.
 - 3) For home health agencies, the registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether goals are being met.
 - 4) For home nursing agencies, the registered nurse shall make a supervisory visit to the patient's/client's residence at least every 60 days when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether the goals of the treatment plan are being met.
- c) Home Services or In-Home Services Worker

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- 1) As defined in this Part and under the Act, *Home Services or in-home services means assistance with activities of daily living , housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. Home Services or in home services does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act.* (Section 2.09 of the Act) Home services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.
- 2) Home services or in-home services workers ~~shall~~will provide services only in accordance with this Part~~the policies and requirements of the placement or employing agency, as well as the service arrangements spelled out in the contract.~~
- 3) Duties of home services or in-home services workers may include the following:
 - A) Observation of client functioning and reporting changes to his/her supervisor or employer and to a person designated by the client;
 - B) Assistance with household chores, including cooking and meal preparation, cleaning and laundry;
 - C) Assistance in completing activities such as shopping and appointments outside of the home;
 - D) Companionship;
 - E) Completion of appropriate records documenting service provision; and
 - F) Assistance with activities of daily living and personal care.
- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of acceptable tasks and also

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limitations when a more medical model of assistance would be needed to meet the higher needs of the client.

- A) Skin Care. A home services worker may perform general skin care assistance. Skin care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker must be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a physician's prescription. Skilled skin care must be provided by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes, application of prescription medications, skilled observation and reporting.
- B) Ambulation. A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of ~~their~~ training. Once the prescribing individual or the health care provider responsible for ~~the~~ training ~~of~~ the client is comfortable with releasing the client to work on his or her own with the adaptive equipment, a home services worker may assist with ambulation.
- C) Bathing. A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs. Home services workers may assist individuals who are unable to be bathed in a tub or shower only when the following requirements are met:
- i) The home services worker shall have been trained in the particular methods required to perform a bed bath;

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- ii) The client or client's representative shall be able to participate in or direct the bathing process and provide ongoing feedback to the home services worker; and
 - iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform a bed bath.
- D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a physician's prescription. A home services worker may not assist with ~~applying application of~~ an Ace bandage that can be purchased only with a physician's prescription (the application of which involves wrapping a part of the client's body) or with ~~applying application of~~ a sequential compression device that can be purchased only with a physician's prescription.
- E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to ~~encouraging the encouragement of~~ normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. A home services worker shall not perform Passive Range of Motion ~~may not be performed by a home services worker.~~
- F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function.
- G) Hair Care. As a part of the broader set of services provided to clients who are receiving home services, home services workers may assist clients with the maintenance and appearance of their

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hair. Hair care within these limitations may include shampooing with non-medicated shampoo or shampoo that does not require a physician's prescription, drying, combing and styling hair.

- H) Mouth Care. A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.
- I) Nail Care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing ~~of~~ nails. Assistance by a home services worker ~~shall~~ may not include nail trimming. Clients with a medical condition that might involve peripheral circulatory problems or loss of sensation shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.
- J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed, only when skilled skin care, as previously described, is not required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.
- L) Toileting. A home services worker may assist a client to and from the bathroom; provide assistance with bed pans, urinals, and commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.
 - i) A home services worker may empty or change external urine collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is

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considered skilled care and shall not be performed by a home services worker.

- ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.
- M) Transfers. A home services worker may assist with transfers only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, ~~wheelchairs~~wheel-chairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. ~~At~~ ~~general,~~ a home services worker ~~shall~~may not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:
- i) The home services worker must have been trained in the use of the mechanical or electrical transfer device by the licensed agency;
 - ii) The client or client representative must be able to direct the transfer step by step; and
 - iii) The agency must have conducted a competency evaluation of the worker using the type of device that is available in the home.
- N) Medication Reminding. A home services worker may assist a client with medication reminding only when medications have been pre-selected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription

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bottles, such as medication minders. Medication minder containers shall be clearly marked as to day and time of dosage. Medication reminding includes: inquiries as to whether medications were taken; verbal prompting to take medications; handing the appropriately marked medication minder container to the client; and opening the appropriately marked medication minder container for the client if the client is physically unable to open the container. These limitations apply to all prescription and all over-the-counter medications. The home services worker shall immediately report to the supervisor, or, in the case of a placement worker, to the client or the client's advocate or designee, any irregularities noted in the pre-selected medications, such as medications taken too often or not often enough, or not at the correct time as identified in the written instructions.

- O) A home services worker shall not provide respiratory care. Respiratory care is skilled and includes postural drainage; cupping; adjusting oxygen flow within established parameters; nasal, endotracheal and tracheal suctioning; and turning off or changing tanks. However, home services workers may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning.
- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
- A) Provide skilled personal care services as defined in Section 245.20;
 - B) Become or act as a ~~power of attorney~~Power of Attorney;
 - C) Be involved in any financial transactions of the client outside of contracted services. In ~~thesesuch~~ cases, the home services worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;
 - D) Perform or provide medication setup for a client; and

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- E) Other actions specifically prohibited by agency policy or other State laws.
- 6) Supervision of a home services worker shall include the following (these provisions do not apply to placement agencies):
 - A) An individual who is in a supervisory capacity shall be designated and available to the worker for responses to questions at all times.
 - B) On-site supervision shall take place at a minimum of every 90 days or more often if the plan of service requires it. The supervisory visits may be made when the home services worker is present so that the supervisor may observe, or when the home services worker is absent so that the supervisor may assess relationships and determine whether the service plan is being met.
 - C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.
- d) Licensed Practical Nurse
 - 1) The licensed practical nurse may perform selected acts in accordance with the Nurse Practice Act and under the direction of a registered nurse, including administering the administration of treatments and medications in the care of the ill, injured, or infirm; ~~the maintenance of health maintenance;~~ and prevention of illness prevention, ~~under the direction of a registered nurse~~.
 - 2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse, and these reports shall be documented in the clinical notes.
 - 3) The licensed practical nurse shall prepare clinical notes for the clinical record.
- e) Medical Social Worker. When medical social services are provided, ~~the medical social services shall be given by a~~ social worker or ~~by a~~ social work assistant under the supervision of a social worker shall provide the services in accordance with the plan of treatment. These services shall include the following:

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- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
- 2) Assess the social and emotional factors ~~in order~~ to estimate the patient's capacity and potential to cope with the problems of daily living.
- 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
- 4) Assist the patient and family with personal and environmental difficulties that predispose toward illness or interfere with obtaining maximum benefits from medical care.
- 5) ~~Use~~Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.
- 6) Observe, record and report social and emotional changes.
- 7) Prepare clinical and progress notes for the clinical record.
- 8) ~~Supervise~~Supervision of the social work assistant, which shall include the following:
 - A) A licensed social worker ~~shall~~must be accessible by telephone to the social work assistant at all times while the social work assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the social work assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.

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- D) The supervisory visit shall include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the ~~use~~utilization of outside resources.
- f) Occupational Therapist and Occupational Therapy Assistant. When occupational therapy services are required, ~~occupational therapy services shall be provided by~~ an occupational therapist or ~~by~~ an occupational therapy assistant under the supervision of an occupational therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Occupational Therapy Practice Act. These services shall include the following:
- ~~1)~~ 1)4) ~~Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.~~
 - ~~2)~~ 2)5) ~~Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.~~
 - ~~3)~~ 3)6) ~~Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.~~
 - 1)4) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
 - 2)5) Prepare clinical and progress notes for the clinical record.
 - 3)6) Supervise~~Supervision of~~ the occupational therapy assistant, which shall include the following:
 - A) A licensed occupational therapist shall be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that

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the supervisor may assess relationships and determine whether goals are being met.

- C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the useutilization of outside resources.
- g) Physical Therapist and Physical Therapist Assistant
- 1) When physical therapy services are provided, ~~physical therapy services shall be given by~~ a physical therapist or ~~by~~ a physical therapist assistant under the supervision of a physical therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Physical Therapy Act. These services shall include the following:
 - A) ~~Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.~~
 - B) ~~Plan and prepare a written treatment program based on the evaluation of available patient data.~~
 - C) ~~Perform patient tests, measurements, and evaluations, such as range of motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.~~
 - D) ~~Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.~~
 - E) ~~Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non manual~~

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~~exercises, such as active regimens, isometric and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving application of physical agents, such as heat, light, cold, water and electricity. Administer traction and massage. Evaluate, fit and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.~~

~~F) Observe, record, and report to the physician or podiatrist the patient's treatment, response and progress.~~

~~A)G) Instruct other health team personnel, including, when appropriate, home health aides and family members, in certain phases of physical therapy with which they may work with the patient.~~

~~B)H) Instruct the patient and family in the total physical therapy program.~~

~~C)I) Prepare clinical and progress notes for the clinical record.~~

2) Supervision of the physical therapist assistant shall include the following:

A) A licensed physical therapist shall be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.

B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.

C) Supervision does not constitute treatment.

D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of

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outside resources.

- 3) The physical therapist assistant shall:
- A) Be directed by and under the supervision of a licensed physical therapist and within the licensee's scope of practice as established by the Illinois Physical Therapy Act;-
 - B) Administer the physical therapy program as established by the physical therapist;-
 - ~~C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water and electrical modalities to patients with relatively stable conditions.~~
 - ~~D) Instruct, motivate and assist patients in learning and improving functional activities such as perambulation, transfers, ambulation and activities of daily living.~~
 - ~~C)E) Observe patient's progress and response to treatment, and report to the physical therapist; and-~~
 - ~~D)F) Confer with members of the health care team for planning, modifying and coordinating treatment programs.~~
- h) Registered Nurse (RN). Skilled nursing services shall be provided by a registered nurse in accordance with the plan of treatment. The registered nurse shall~~These services shall include the following:~~
- 1) Be responsible for the observation, assessment, nursing diagnosis, counsel, care and health teaching ~~for of the~~ ill, injured or infirm patients; and health~~the~~ maintenance ~~of health~~ and illness prevention ~~for of illness of~~ others;-
 - 2) Maintain a clinical record for each patient receiving care;-
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care, or at least every 60 days for a home

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health agency and every 90 days for a home nursing agency;

- 4) In the case of an RN working as a part of a home health or home nursing agency, make home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home;
 - 5) Direct the activities of the licensed practical nurse;
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist; and;
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i) Speech-Language Pathologist. When required, speech therapy services shall be provided by a speech-language pathologist in accordance with the plan of treatment. The speech-language pathologist shall~~These services shall include the following:~~
- 1) Assist the physician in determining and recommending appropriate speech and hearing services;
 - 2) Evaluate the patient's speech and language abilities and establish a plan of care;~~treatment.~~
 - 3) Provide rehabilitation services for speech and language disorders;
 - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care;
 - 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; and;
 - 6) Prepare clinical and progress notes for the clinical record.
- j) Audiologist. When audiology services are required, audiology services shall be provided by an audiologist shall provide the services in accordance with the plan of treatment. The audiologist shall~~These services shall include the following:~~

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- 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities;~~;~~
 - 2) Assess the patient's need for amplification;~~;~~
 - 3) Provide rehabilitative services for hearing disorders;~~;~~
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; and~~;~~
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- k) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, a written agreement between the agency and each educational institution shall specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:
- 1) The agency retains the responsibility for client care;
 - 2) The educational institution retains the responsibility for student education;
 - 3) Student and faculty performance expectations;
 - 4) Faculty supervision of undergraduate students in the clinic and the field;
 - 5) Ratio of faculty to students;
 - 6) Confidentiality regarding patient information;
 - 7) Required insurance coverage; and
 - 8) Provisions for the agency and faculty to jointly evaluate the students' performance and the training program.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 245.71 Qualifications and Requirements for Home Services Workers

- a) Each agency shall ensure and shall maintain documentation in the home services worker's employee file that all persons employed or providing services as an in-home services worker, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render this~~such~~ care, comply with the following conditions:
- 1) Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act without a waiver;
 - 2) Has a copy of his or her~~the~~ Social Security card; and
 - 3) Has a visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each placement agency shall require proof that the home service worker has completed a minimum of eight hours of training prior to his or her first assignment. The training shall include all of the items noted in subsection (d) ~~of this Section.~~
- c) Each home services agency shall provide or arrange for a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsections (d)(1) through ~~(12) of this Section.~~ The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training, including a home health aide who is approved on the Health Care Worker Registry. The agency shall give the home health aide a competency evaluation prior to his or her first assignment. The home services agency shall not give ~~an~~ worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first four hours of training. The competency evaluation shall ensure that the home services worker is competent to provide the services required in his or her first assignment. The worker~~workers~~ shall be similarly tested following the remaining four hours of training.

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- d) The placement agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days). The home services placement agency shall ~~not~~ give ~~an~~ worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall ~~ensure~~~~insure~~ that the home services worker is competent to provide the services required in his or her assignment. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:
- 1) The employee's job responsibilities and limitations;
 - 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;
 - 3) ~~Observing~~~~Observation~~, reporting and ~~documenting~~~~documentation of~~ client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
 - 4) ~~Performing~~~~Performance of~~ personal care tasks for clients, including: bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positioning; toileting; and medication reminding;
 - 5) ~~Assisting~~~~Performance of ability to assist~~ in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;
 - 6) Basic hygiene and basic infection control practices;
 - 7) ~~Maintaining~~~~Maintenance of~~ a clean, safe and healthy environment;
 - 8) Basic personal and environmental safety precautions;
 - 9) Recognizing emergencies and knowledge of emergency procedures, including basic first aid and implementation of a client's emergency preparedness plan;
 - 10) Confidentiality of ~~client's~~~~client~~ personal, financial and health information;

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- 11) Behaviors that would constitute abuse or neglect and the legal prohibitions against ~~thesesuch~~ behaviors, as well as knowledge and understanding of abuse and neglect prevention and reporting requirements; and
 - 12) Any other task that the agency may choose to have the worker perform.
- e) All home services workers shall complete a minimum of eight hours of training during each year of employment to maintain placement availability, based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial eight hours of training required in subsection (c) ~~of this Section~~ shall satisfy the annual training requirement for the home services worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:
- 1) Promoting client dignity, independence, self-determination, privacy, choice and rights;
 - 2) Disaster procedures;
 - 3) Hygiene and infection control; and
 - 4) Abuse and neglect prevention and reporting requirements.
- f) All training shall be documented with the date of the training; the length of time spent on each training topic starting and ending times; instructors and their qualifications; short description of content; and staff member's signature.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.75 Infection Control

- a) Each agency shall develop and implement policies and procedures for investigating, controlling and preventing infections. Placement agencies shall provide the Centers for Disease Control and Prevention publication "Guidelines for Hand Hygiene in Health-Care Settings".

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- b) Each agency shall adhere, at a minimum and as appropriate, to the guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, as incorporated in Section 245.25.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART C: LICENSURE PROCEDURES

Section 245.80 Licensure Required

- a) *No person shall open, manage, conduct or maintain a home health agency without a license issued by the Department. (Section 3 of the Act)*
- b) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home services agency, or advertise himself or herself as a home services agency or as offering services that would be included in the definition of home services or a home services agency, without a license issued by the Department. (Section 3.3 of the Act)*
- c) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home nursing agency, or advertise himself or herself as a home nursing agency or as offering services that would be included in the definition of a home nursing agency, without a license issued by the Department. (Section 3.7 of the Act)*
- d) License Nontransferable
- 1) Each license shall be issued only for the specific agency named in the application and shall not be transferred or assigned to any other person, agency or corporation.
 - 2) Sale, assignment, lease or other transfer, voluntary or involuntary, shall require relicensure by the new owner prior to maintaining, operating or conducting an agency.
 - 3) In the case of agencies operating under a franchise arrangement, each unique business entity shall obtain and maintain a distinct license and shall not share licensure based on franchised name status.

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- 4) A licensee shall notify the Department in writing at least 45 days in advance of any intention to:
 - A) Change ownership; or
 - B) Sell its agency.
- 5) A change of ownership happens when one of the following transactions occurs:
 - A) In an unincorporated sole proprietorship, when the property is transferred to another party;
 - B) A material change in a partnership that is caused by the removal, addition or substitution of a partner;
 - C) In a corporation, when the provider corporation merges into another corporation, or the consolidation of two or more corporations, one of which is the licensee, resulting in the creation of a new corporation;
 - D) The transfer of any corporation stock that results in a change of the person or persons who control the agency; or
 - E) The transfer of any stock in excess of 75 percent of the outstanding stock.
- 6) Pursuant to subsection (d)(5)(C), the transfer of corporate stock or the merger of another corporation into the licensee corporation does not constitute a change of ownership if the licensee corporation remains in existence. In these transactions, the name of the corporation, its officers, its independent subsidiaries, and any other relevant information that the Department may require shall be made available to the Department upon request.
- 7) If a sale of an agency causes a change in the person or persons who control or operate the agency, the agency is considered a new agency, and

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the licensee shall apply for a new license and shall comply with this Part and any other applicable State and federal rules.

- 8) Whenever ownership of an agency is sold from the person or organization named on the license to another person or organization, the new owner shall apply for a new license. The new owner shall file an application for license on the renewal/change of ownership application at least 45 days prior to the sale.
 - 9) The Department shall issue a new license to a new owner who meets the requirements for licensure under this Part. The transactions described in this Section shall not be complete until the Department issues a new license to the new person, legal entity or partnership. The former licensee shall return its license to the Department by certified mail.
- e) Each license shall be for a term of one year and shall expire one year from the date of issuance. However, initial licenses shall expire one year from the end of the month in which the initial license was issued.
- f) Out-of-State Agencies. A license is required for any agency providing care in Illinois, or functioning in a capacity of matching workers with clients or consumers for home nursing or home service care, including internet matching services where the parent agency is domiciled in a state other than Illinois. In ~~thesesuch~~ cases, the following conditions shall be met:
- 1) The licensee shall be registered to do business in Illinois under the Business Corporation Act of ~~1983+938~~ ~~[805 ILCS 5]~~ or otherwise authorized to do business in Illinois.
 - 2) The licensee shall have an office in Illinois.
 - 3) All professional care supervisory and staff personnel caring for patients or clients residing in Illinois shall be subject to any licensure, certification or registration that is required to perform the respective service in Illinois, and shall be so licensed, certified or registered.
- g) The licensee shall notify the Department in writing not less than 30 days prior to closing the agency.

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- h) *Any agency conducted by and for the adherents of any well recognized church or religious denomination for the purpose of providing services for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination is not subject to licensure. (Section 13 of the Act)*
- i) Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee shall be submitted for each home health agency subunit.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.90 License Application

- a) Initial Application – All Agencies
- 1) Any person who desires to obtain a license to operate a home health, home nursing, home services, home nursing placement, or home service placement agency shall file a licensure application with the Department. Any person in interest, different from the licensee, who desires to conduct, maintain, or operate a home health, home nursing, home services, home nursing placement or home services placement agency shall also file an application for licensure with the Department.
 - 2) The application shall be accompanied by a Certificate of Insurance documenting minimum liability coverage of \$1 million per occurrence and \$3 million in the aggregate.
 - 3) Each initial application for licensure shall be on forms provided by the Department, and shall contain, at a minimum, the following information:
 - A) *Name, address, and location of the agency;*
 - B) *Ownership, organization and governing structure of the agency;*
 - C) A description of the services to be provided;
 - D) A list of the staff of the agency or a list of placement agency registry, including any applicable licensure, registration, or

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certification and any other *qualifications of the staff* of the agency;

- E) *Sources of financing of services* and any other sources of income of the agency;
- F) A description or map of the geographic *service area* in which services are provided by the agency;
- G) *Charges for services* by types of services provided by the agency; and
- H) For home health agencies, copies of any *affiliation agreements with other health care providers*. (Section 5(a) of the Act)

b) Renewal Application – All Agencies

- 1) Each licensee shall file a renewal application with the Department not less than 60 days, ~~or more~~ more than 90 days, prior to the expiration date of the licensee's current license.
- 2) Each renewal application shall be on forms provided by the Department and shall contain the information specified in subsection (a)(3) ~~of this Section~~.

c) Renewal Application – Home Health Agencies

Applications for renewal of home health agency licenses shall additionally contain the following information:

- 1) *Patient load* data for the preceding year, including the number of patients discharged, the total number of patients who received services, the number of patients over 65 years of age who received services, and the number of patients being served at the end of the year; and
- 2) *Agency utilization* data, including the number of patients receiving specific types of services and the number of visits by types of services provided. (Section 5(a) of the Act)

d) [Renewal Application – Home Services, Home Nursing, Home Services Placement and Home Nursing Placement Agencies](#)

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Applications for renewal shall additionally contain the following information:

- 1) Client load data for home services and home nursing for the preceding year, including the number of clients admitted, the number of clients discharged, the number of patients over 65 years of age who received services, and the number of clients being served at the end of the year, with the exception of those clients being served through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs; and
 - 2) Client data for Home Services Placement and Home Nursing Placement for the preceding year, including the number of placements, the number of placements for clients 65 or older, and the number of clients in process on the last day of the most recent fiscal period.
- e) A home health agency shall be in operation and be able to demonstrate client activity prior to the third renewal of the agency's license to verify compliance for a renewal of the agency's license. A home services, home nursing, home services placement and home nursing placement agency shall be in operation and be able to demonstrate client activity prior to the second renewal of the agency's license to verify compliance for a renewal of the agency's license.
- ~~f)~~d) *An entity that meets the requirements for licensure under the Act and this Part may obtain licensure singly or in any combination for the categories authorized under the Act and this Part. (Section 4(d) of the Act)*
- ~~g)~~e) *One application for licensure shall be used even if a combination of licenses authorized under the Act and this Part is sought. Applicants for multiple licenses shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act) The non-refundable licensure fee under the multiple category shall not exceed \$1500 annually.*
- ~~h)~~f) *The Department will review each application. The Department will approve the application and issue an initial or renewal license to the applicant for operation of an agency when it finds that the applicant meets all of the *requirements of the Act and the standards established by the Department* in this Part. The Department may also issue a provisional license, as provided in Section 4 of the Act and Section 245.100 ~~of this Part~~, or deny an application, as provided in Sections 8 and*

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9 of the Act and Section 245.130 ~~of this Part~~. (Section 4(c) of the Act)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.95 License Application Fee, Single or Multiple Licenses

- a) *Applicants for multiple licenses under the licensure~~the~~ system set forth in this Part shall pay the higher of the licensure fees applicable.* (Section 4(d) of the Act)
- b) A home nursing agency or a home ~~services~~service agency shall pay a licensure fee not to exceed \$1500 annually. The fee is not refundable.
- c) A home nursing placement agency or home services placement agency shall pay a licensure fee not to exceed \$500 annually. The fee is not refundable.
- d) ~~Home Health Agencies.~~ For a single home health agency license only, each initial and renewal application shall be accompanied by a *license fee of \$25*. (Section 4(c) of the Act) The fee is not refundable.
- e) An applicant for dual licenses as a home services agency and a home services placement agency, or a home nursing agency and a home nursing placement agency, shall operate each licensed agency as a separate entity to meet the requirements of the Act and this Part as an employer of workers and as a placement agency that places individuals.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: CLIENT/PATIENT SERVICES

Section 245.200 Services – Home Health

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist,

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under a plan of treatment established by ~~the~~ physician or podiatrist, and under the supervision of agency staff.

- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
 - 1) ~~A detailed description of the services~~Services to be provided;
 - 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) Statement of responsibility of liability and insurance coverage;
 - 7) Period of time in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provision for termination of services.
- d) Acceptance of Patients. Patient acceptance and discharge policies shall include, but not be limited to, the following:
 - 1) Persons shall be accepted for health services on a part-time or intermittent basis in accordance with a plan of treatment established by the patient's physician or podiatrist. This plan shall be promulgated in writing within 14 days after acceptance and signed by the physician within 30 days after the start of the care date.

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- 2) Prior to acceptance of a patient, the agency shall inform the person of the agency's charges for the various services that it offers.
 - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of services.
 - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the agency in the patient's place of residence.
 - 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made ~~for any continuing care~~.
 - 6) Services shall not be terminated until ~~such time as~~ the registered nurse, or the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, consider termination ~~deem it~~ appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and an assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:
- 1) Diagnoses;
 - 2) Functional limitations and rehabilitation potential;
 - 3) Expected outcomes for the patient;
 - 4) The patient's physician's or podiatrist's regimen of:
 - A) Medications;

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- B) Treatments;
 - C) Activity;
 - D) Diet;
 - E) Specific procedures ~~considered~~ deemed essential for the health and safety of the patient;
 - F) Mental status;
 - G) Frequency of visits;
 - H) Equipment required;
 - I) Instructions for timely discharge or referral; and
 - J) Assessed need for influenza and pneumococcal vaccination;
- 5) The patient's physician's or podiatrist's signature and date.
- f) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.
- 1) The home health services team shall review the plan every 62 days, or more often if the patient's condition warrants.
 - 2) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days, or more often as indicated.
- g) Patient Care Plan
- 1) Home health services from members of the agency staff, as well as those under contractual arrangements, shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be

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written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. ~~A registered nurse shall make the~~The initial assessment ~~is to be made by a registered nurse~~. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. ~~If~~~~those circumstances in which~~ the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.

- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:

- A) Patient problems;
- B) Patient's goals, family's goals, and service goals;
- C) Service approaches to modify or eliminate problems;
- D) The staff responsible for each element of service;
- E) Anticipated outcome of ~~the~~ service approach with an estimated time frame for completion; and
- F) Potential for discharge from service.

h) Clinical Records

- 1) Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
- A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings;
 - B) A plan of treatment signed by the patient's physician or podiatrist;

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- C) A patient care plan developed by the home health services team in accordance with the patient's physician's or podiatrist's plan of treatment;:-
- D) A noted medication list with dates reviewed and revised and date sent to the patient's physician or podiatrist;:-
- E) Initial and periodic patient assessments by the registered nurse that include documentation of the patient's functional status and eligibility for service;:-
- F) Assessments made by other members of the home health services team;:-
- G) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the patient's clinical record at least weekly;:-
- H) Reports on all patient home health care conferences;:-
- I) Reports of contacts with the patient's physician or podiatrist by patient and staff;:-
- J) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team;:-
- K) Written summary reports sent to the patient's physician or podiatrist every 62 days, containing home health services provided, the patient's status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services;:-
- L) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders;:-
- M) A discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to

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close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician; ~~and-~~

- N) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
- 2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain electronic or faxed copies of records from licensed professionals, rather than original records, provided that the electronic copies are stored on a disc or on a flash drive in addition to a computer hard drive~~faxed copies shall be maintained on non-thermal paper~~ and that the original records shall be maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.
- 3) ~~Agencies~~Those agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 4) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of patient records that explains the use of records, removal of records and release of information.
- 5) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall develop policies and procedures governing these entries and the appropriate authentication and dating of electronic records. Authentication may include signatures, written initials, or computer-secure entry by a unique identifier or primary author who has received and approved the entry. The agency shall enact safeguards to prevent unauthorized access to the records and shall draft a

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process for reconstruction of the records if the system fails or breaks down.

- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that shall include, but not be limited to, the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) Drugs and treatments shall be administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment of the patient.
 - 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 4) The agency's physician or podiatrist or registered nurse shall check all medicines that a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's physician or podiatrist.
 - 5) All verbal orders for medication or change in medication orders shall be taken by the ~~registered~~ nurse, written, and signed by the patient's physician or podiatrist within 30 days after the verbal order.
 - 6) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary ~~if in the event of~~ a drug reaction occurs.
- j) Evaluation. The home health agency shall have written policies for evaluation and shall make an overall evaluation of the agency's total program at least once a

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year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.

- k) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include, but are not limited to: number of patients receiving each service offered; number of patient visits; reasons for discharge; breakdown by diagnosis; sources of referral; number of patients not accepted, with reasons; and total staff days for each service offered.
- l) Clinical Record Review
 - 1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to, whether the:
 - A) Patient care plan was directly related to the stated diagnosis and plan of treatment;
 - B) Frequency of visits was consistent with the plan of treatment; and
 - C) Services could have been provided in a shorter span of time.
 - 2) Clinical records shall be reviewed continually for each 62-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.205 Services – Home Nursing Agencies

- a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
- 1) ~~In~~ accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing health care professional; and
 - 2) ~~Under~~ the supervision of agency staff, by a health care professional. If the agency manager is the designated nursing supervisor, the agency shall also have another nurse on staff to provide the direct skilled nursing care.
- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements with a third party.
- c) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
- 1) A detailed description of the services to be provided;
 - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;

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- 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and social security taxes;
- 7) The period of time the written agreement is in effect;
- 8) The date and signatures of appropriate authorities; and
- 9) Provisions for termination of services.

d)e) Acceptance and Discharge of Patients

Patient acceptance and discharge policies shall include, but not be limited to, the following:

- 1) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing health care professional within 45 days after acceptance.
- 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
- 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients ~~shall be~~ accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.
- 4) When services are to be terminated by the agency, the patient ~~shall is to~~ be notified seven working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made ~~for any continuing care~~.
- 5) Services shall not be terminated until ~~such time as~~ the registered nurse has provided a minimum of seven ~~days~~ days notice to the patient's health care professional. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In ~~thesesuch~~ cases, the agency shall notify the client of the timing of the termination of services and the reason

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for the termination. Documentation of the risk to the worker shall be maintained in the client record.

e)ⓓ Plan of Treatment

Skilled nursing services shall be in accordance with a plan based on the client's diagnosis, an assessment of the client's immediate and long-range needs and resources, and client participation. The plan is to be established in consultation with the nursing personnel; the client's health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:

- 1) Diagnoses;
- 2) Client limitations and prognosis;
- 3) Expected outcomes for the client;
- 4) The prescribing [health care](#) professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge;
- 5) The types and frequency of services to be provided; and
- 6) Assessment of need for influenza and pneumococcal vaccination.

f)ⓓ Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing [health care](#) professional's signature shall be obtained within 45 days after any modification of the plan.

- 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.
- 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.

g)ⓓ Clinical Records

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- 1) ~~The agency shall maintain~~~~Each client shall have~~ a clinical record for each client maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
 - A) Appropriate identifying information for the client, household members and caretakers;
 - B) A plan of treatment developed by the home nursing agency in ~~accordance~~~~accord~~ with the health care professional's order;
 - C) A list of medications that the client is taking, updated as needed. The list shall specify the dose, method, route of administration, and frequency of administration of each medication. All potential contraindications, drug interactions, and adverse reactions shall be reported to the health care professional within 24 hours, or sooner as warranted, and documented in the clinical record;
 - D) Initial and periodic client assessments by the registered nurse;
 - E) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the client's clinical record at least weekly;
 - F) Reports on all client conferences;
 - G) Report of ~~contact~~~~contracts~~ with the client's health care professional by client and staff;
 - H) ~~Documentation~~~~Indication~~ of supervision of services by the supervising nurse, a registered nurse, or other members of the home nursing supervisory/management team;
 - I) Written and signed confirmation of the client's health care professional's interim verbal orders;
 - J) A discharge summary giving a brief review of service, client status, reason for discharge, and plans for post-discharge needs of the client. A discharge summary may suffice as documentation to

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close the client record for one-time visits or short-term services. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician or health care professional;

- K) A copy of appropriate client transfer information, when requested, if the client is transferred to another health facility or health agency.
- 2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. The procedures may include that the agency will use and maintain electronic or faxed copies of records from licensed professionals, rather than original records, provided that the electronic copies are stored on a disc or on a flash drive in addition to a computer hard drive~~faxed copies will be maintained on non-thermal paper~~ and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract shall provide that the professional maintain the original records for a period of five years.
- 3) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall have policies and procedures in place in regard to thesesuch entries and the appropriate authentication and dating of those records. Authentication may include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has received and approved the entry. The agency shall have safeguards in place to prevent unauthorized access to the records and a process for reconstruction of the records if thein the event of a system fails or breaks down~~failure or breakdown~~.
- 4) Agencies~~Those agencies~~ that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)

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- 5) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of client records that explains the use of records, removal of records and release of information.

h)g) Drugs and Biologicals

The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:

- 1) All orders for medications to be given shall be dated and signed by the client's health care professional.
- 2) All orders for medications shall contain the name of the drug, dosage, frequency, method, and route of administration, and permission from the prescribing health care professional if the client, the client's family, or both are to be taught to give medications.
- 3) All verbal orders for medication or change in medication orders shall be taken by the ~~registered~~ nurse, written, and signed by the patient's health care~~healthcare~~ professional within 45 days.
- 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary ~~if in the event of~~ a drug reaction occurs.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.210 Services – Home Services Agencies

- a) Agencies licensed as home services agencies shall provide non-medical services, which may be provided directly by agency staff or through a contractual purchase of services, that are intended to assist clients with activities of daily living. Services may include, but are not limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be

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provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and when changes occur.

- b) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
- 1) A detailed description of the services to be provided;
 - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and Social Security taxes;
 - 7) The period of time the written agreement is in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provisions for termination of services.
- c) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that includes, but is not limited to:
- 1) Indication and assurance of compliance by the agency with the requirements of the ~~licensing~~ Act, including the Health Care Worker Background Check Act;
 - 2) Identification of parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;

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- 3) Information on the parties responsible for supervising workers, as well as hiring, firing and discipline of in-home services workers;
- 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
- 5) Time period for the contractual arrangement and conditions for termination of the contract; and
- 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.

d)e) Acceptance of Clients. Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:

- 1) Persons shall be accepted for service on the basis of their desire or need for assistance with household or personal support ~~and~~ or companionship services. A home services agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.
- 2) No person shall be refused services based on age, race, color, sex, marital status or national origin.
- 3) When services are terminated by the agency, the client is to be notified at least seven working days in advance of the date of termination, with a stated reason for the termination. This information shall be maintained in the client record. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In ~~thesesuch~~ cases, the agency may notify the client of termination of services and the reason for termination. Documentation of the risk to the provider shall be maintained in the client record.
- 4) The acceptance of the client for non-medical services shall be based on the following documented information, in consultation with the client and his or her appropriate family members or representative:

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- A) Any functional limitations of the client and the relevance of the limitation to the services requested; and
- B) Any circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physical activity, diet and mental status in relation to the services requested.
- e)⇄ Service Plan. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
- 1) The level, type, frequency and ~~or~~ scope of services the client is receiving;
 - 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
 - 3) Information received from the client, ~~in consultation with the client~~ and his or her appropriate family members or representative, which shall be communicated to the home services worker, on circumstances that may have an impact on the client's activity or involvement ~~by the client~~, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.
- f)⇄ Physician signature is not required for the plan of service developed under this Section.
- g)⇄ The service plan shall be reviewed and revised as necessary, but not less than once annually.
- h)⇄ Client Records. A client record shall be maintained for each client receiving in-home services. The record shall contain:
- 1) Appropriate identifying information for the client, including the client's name, address and telephone numbers;

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- 2) The name, telephone numbers and address of the client's representative, if applicable;
 - 3) The name, telephone numbers and address of an individual or relative to be contacted in an emergency;
 - 4) The plan of services agreed to by the client and agency;
 - 5) A copy of the Client Home Care Services Agreement or Contract; and
 - 6) Documentation by the home services worker of each of the services provided at each visit.
- ~~i)h)~~ Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided.
- ~~i)i)~~ Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.212 Services – Home Nursing Placement Agency

- a) "Placement agency" includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. (Section 2.12 of the Act) Agencies licensed as home nursing placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. A placement agency shall not be the employer of the nurse for whom it procures, offers, refers, provides or attempts to provide work. The nurse shall perform services ordered by the client's physician without any direction, control or supervision by the home nursing placement agency with respect to performing the skilled nursing services. Following the placement of the worker with the client, the placement agency shall not have any control of the worker's assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client's needs.

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- 1) The maximum duration of a contract shall be no longer than 12 months.
 - 2) The home nursing placement agency may charge only a one-time fee for placement. The home nursing placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.
- b) Actions taken by the placement agency as part of its quality review process as required by Section 245.240(d) shall not be considered an ongoing relationship.
- c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
- b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
- d)e) A placement agency shall must identify itself as a placement agency in all advertisement and marketing materials, including, but not limited to, a statement that the placed nurse is the client's employee and not the placement agency's employee.
- e)d) The placement agency shall require and document that anyone wishing to remain eligible for placement by the agency shall provide, to the agency, a copy of his or her current Illinois Professional RN or LPN license. The placement agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active.
- 1) ~~An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check;~~
 - 2) ~~Anyone wishing to remain eligible for placement by the agency shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and~~
 - 3) ~~Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.~~

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- ~~f)e)~~ The placement agency shall notify the worker both verbally and in writing of the implications of the worker's relationship to the client as the worker's employer. The document ~~shall~~must be printed in no less than 12-point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:
- 1) Employer of the licensed worker;
 - 2) Liability for the licensed worker;
 - 3) Payment of wages to the licensed worker;
 - 4) Payment of employment taxes, unemployment insurance, and ~~workers'~~worker's compensation for the licensed worker;
 - 5) Payment of Social Security taxes for the licensed worker;
 - 6) Day-to-day supervision of the licensed worker;
 - 7) Assignment of duties to the licensed worker;
 - 8) Responsibility for hiring, firing and ~~disciplining~~discipline of the licensed worker; and
 - 9) Provision of equipment or materials for the licensed worker's use in providing services to the consumer.
- ~~g)~~ A placement agency shall provide the placed nurse with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.214 Services – Home Services Placement Agency

- a) "Placement agency" includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence

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for purposes of providing home services. (Section 2.12 of the Act) Agencies licensed as home services placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. A placement agency shall not be the employer of a home services worker for whom it procures, offers, refers, provides or attempts to provide work. The home services worker shall perform services pursuant to Section 245.71 without any direction, control or supervision exercised by the home services placement agency with respect to performing the home services work. Following the placement of the worker with the client, the placement agency shall not have any control of the worker's assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client's needs.

- 1) The maximum duration of a contract shall be no longer than 12 months.
 - 2) The home services placement agency may charge only a one-time fee for placement. The home services placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.
- b) Actions taken by the placement agency as part of its quality review process (required by Section 245.240(d)) shall not be considered an ongoing relationship.
- c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
- b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
- d)e) A placement agency shall identify itself as a placement agency in all advertisement and marketing materials, including, but not limited to, a statement that the placed home services worker is the client's employee and not the placement agency's employee.
- e)d) The placement agency shall require and document that:
- 1) An individual wishing to remain eligible for placement by the agency has submitted to a health care worker background check and is active on the Department's Health Care Worker Registry;

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- 2) Anyone wishing to remain eligible for placement by the agency shall provide proof of eight hours of training pursuant to Section 245.71(d) of this Part prior to his or her first placement; and
- 3) Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall provide proof of a minimum of eight hours of in-service training per year.

f)e) The placement agency shall notify the worker both verbally and in writing of the implications of his or her relationship to the client as his or her employer. The document ~~shall~~must be printed in no less than 12-point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:

- 1) Employer of the in-home services worker;
- 2) Liability for the in-home services worker;
- 3) Payment of wages to the in-home services worker;
- 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home services worker;
- 5) Payment of Social Security taxes for the in-home services worker;
- 6) Day-to-day supervision of the in-home services worker;
- 7) Assignment of duties to the in-home services worker;
- 8) Responsibility for hiring, firing, and ~~disciplining~~discipline of the in-home services worker;
- 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer; and
- 10) All worker~~All~~ placement fees, which shall be payable to the placement agency, and procedures for refunds of ~~such~~ fees and a complaint resolution

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process for disputes concerning placement fees, which shall comply with;
~~as currently provided under~~ the Private Employment Agency Act.

- g) A placement agency shall provide the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client and/or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.220 Client Service Contracts – Home Nursing and Home Services Agencies

A contract shall be in force between a home nursing or home services agency and a client. ~~shall be in force;~~ A copy of the contract shall be~~which is~~ provided to the client and a copy shall be~~of which is~~ maintained in the client file at the agency. If the agency has both a home services license and a home nursing license, the agency shall maintain two separate client contracts, one for skilled medical care and one for non-medical services. The ~~contracts document~~ shall be printed in no less than 12-point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive services;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the agency manager and/or other individual beyond the in-home worker to contact in regard to questions, problems, needs or concerns;
- d) A statement describing the agency license status;
- e) Indication and assurance of compliance by the agency with the requirements of the ~~licensing~~ Act, including compliance with the Health Care Worker Background Check Act;
- f) The duration of the contract;
- g) The rate to be paid by the client and a detailed description of services to be provided as a part of the rate;

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- h) A description of the process through which the contract may be modified, amended or terminated;
- i) A description of the agency complaint resolution process;
- j) The billing and payment procedures and requirements;
- k) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- l) A notice as developed and provided by the agency, indicating the responsible party for the following:
 - 1) Employer of the in-home/licensed worker;
 - 2) Liability for the in-home/licensed worker;
 - 3) Payment of wages to the in-home/licensed worker;
 - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
 - 5) Payment of Social Security taxes for the in-home/licensed worker;
 - 6) Day-to-day supervision of the in-home/licensed worker;
 - 7) Assignment of duties to the in-home/licensed worker;
 - 8) Responsibility for hiring, firing and ~~disciplining~~discipline of the in-home/licensed worker; and
 - 9) Provision of equipment or materials for the in-home/licensed worker's use in providing services to the consumer.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency

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A contract between a home nursing placement agency or home services placement agency and a client shall be in force, a copy of which is provided to the client and a copy of which is maintained in the client file at the agency. The document shall be printed in no less than 12_ point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive referral services of a placed worker;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the placement agency manager ~~and~~/or other individual representing the placement agency whowhom the consumer may contact ~~if in the event that~~ the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract, not to exceed 12 months;
- f) The placement rate and fees to be paid by the client ~~and a detailed description of services to be provided as a part of the rate~~;
- g) A description of the process through which the contract may be modified, amended or terminated;
- ~~h)~~ ~~A description of the agency complaint resolution process~~;
- ~~h)~~_i) The billing and payment procedures and requirements;
- ~~j)~~ ~~A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency~~;
- ~~i)~~_k) The entity to whom~~A statement on how~~ the client can report abuse, neglect or financial exploitation, and the number of the Department's complaint hotline;
- ~~j)~~_l) A notice, as developed and provided by the agency, indicating that the client is the employer of the home services worker or nurse and that the client is responsible party for the following:

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- 1) ~~Employer of the in-home/licensed worker;~~
- 1)2) Liability for the in-home/licensed worker or nurse;
- 2)3) ~~Paying~~ Payment of wages to the in-home/licensed worker or nurse;
- 3)4) ~~Paying~~ Payment of employment taxes, unemployment insurance, and ~~workers'~~ worker's compensation for the in-home/licensed worker or nurse;
- 4)5) ~~Paying~~ Payment of Social Security taxes for the in-home/licensed worker or nurse;
- 5)6) Day-to-day supervision of the in-home/licensed worker or nurse;
- 6)7) ~~Assigning~~ Assignment of duties to the in-home/licensed worker or nurse;
- 7)8) ~~Hiring~~ Responsibility for hiring, firing and ~~disciplining~~ discipline of the in-home/licensed worker or nurse; and
- 8)9) ~~Providing~~ Provision of equipment or materials for the in-home/licensed worker's or nurse's use in providing services to the consumer; ~~and~~
- 10) ~~All placement fees, procedures for refunds of those fees, and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.240 Quality Improvement Program

- a) Each agency shall develop a quality improvement program ~~for the agency~~. The quality improvement program shall include written policies and shall evaluate the agency's total program at least once a year. The evaluation for home health agencies, home services agencies, and home nursing agencies shall, at a minimum, include a clinical or client record review, as appropriate. This evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and shall be maintained separately as administrative records.

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- b) Record Review. At least quarterly, the agency shall review a sample of both active and closed clinical or client records to assure that established policies are followed in providing services (direct services, as well as those under contractual arrangement). If applicable, this review shall include, but not be limited to:
- 1) Whether the care plan was directly related to the stated diagnosis and plan of care;
 - 2) Whether the frequency of visits was consistent with the plan of care; ~~and~~
 - 3) Whether the services could have been provided in a shorter span of time or with fewer visits; ~~and~~;
 - 4) Whether the service plan was followed by the home services worker or nursing staff.
- c) None of the information, interviews, reports, statements, memoranda and recommendations produced during or resulting from the agency's quality improvement program may be admissible as evidence nor discoverable in any action of any kind in any court, as provided in Article VIII, Part 21 of the Code of Civil Procedure (Medical Studies).
- d) Placement agencies shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient, including, but not limited to, the placement of workers who have prior training and who are on the Health Care Worker Registry. Results of the evaluation shall be reported to those responsible for the operation of the agency and shall be maintained in a separate file as administrative records.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 245.250 Abuse, Neglect and Financial Exploitation Prevention and Reporting

- a) When an agency has reasonable suspicion that a client has been the victim of abuse, neglect or financial exploitation, the agency shall do the following:
- 1) In the case of an individual who is 60 years of age or older, an individual who has been found to be disabled or one who otherwise qualifies as an

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"eligible adult" under the Elder Abuse and Neglect Act, the agency shall notify the elder abuse provider agency designated by the Department on Aging or an Area Agency on Aging for the area in which the client resides. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.

- 2) In the case of an alleged victim under the age of 18, the agency shall notify the Department of Children and Family Services through the Child Abuse Hotline. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
 - 3) If the abuse or neglect is alleged to be a result of actions by an employee of the agency, ~~or one placed by an agency~~ providing in-home, home health, or home nursing services, the agency shall immediately remove the alleged perpetrator from direct contact with clients and investigate the allegation.
 - 4) If the client contacts the home services placement agency regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home services agency reporting requirements in Section 6.3 of the Act. If the client contacts the home nursing placement agency regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home nursing agency reporting requirements in Section 6.7 of the Act.
- b) In cases of allegations of abuse or neglect by an employee ~~or an individual who has been placed by an agency~~, the agency shall conduct an investigation and develop a written report of the findings of the investigation within 14 days after the initial report. The agency shall send the written report of the investigation to the Department within 24 hours after completion of the investigation and shall maintain a copy of the report on the agency premises for 12 months after the date of the report.
- c) A placement agency shall provide the client, at the time of the placement of the worker, and the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation and a list of situations for which the client and/or placed worker shall contact local law enforcement.

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- d)e) The written report of the investigation conducted pursuant to this Section shall contain at least the following:
- 1) Dates, times and description of alleged abuse, neglect or financial exploitation;
 - 2) Description of injury or abuse to client;
 - 3) Any actions taken by the licensee;
 - 4) A list of individuals and agencies interviewed or notified by the licensee;
 - 5) A description of the action to be taken by the licensee to prevent the abuse, neglect or financial exploitation from occurring in the future; and
 - 6) Statements of any witnesses.
- e)d) Agency employees, ~~persons placed by a placement agency~~ and volunteers shall report abuse, neglect or financial exploitation of a client to the agency management and to the appropriate elder abuse provider agency or the ~~Illinois~~ Department on Aging.
- f)e) The agency shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
- 1) Physical abuse involving physical injury inflicted on a patient ~~and~~/or client by a staff member;
 - 2) Sexual abuse of a patient ~~and~~/or client by a staff member;
 - 3) When a crime has been committed in the ~~patient's~~patient ~~and~~/or client's home by a person other than the patient or client;
 - 4) When a ~~patient's~~patient or client's death has occurred other than by disease processes; or
 - 5) When an allegation of physical abuse, sexual abuse or crime has been reported, or when death (other than by disease or natural causes) has occurred to a patient ~~and~~/or client.

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- ~~g)~~ The agency shall develop and implement a policy concerning local law enforcement notification, including:
- 1) Ensuring the safety of patients ~~and~~/or clients in situations requiring local law enforcement notification;
 - 2) Contacting local law enforcement in situations involving physical abuse of a patient ~~and~~/or client by another person;
 - 3) Contacting police, fire, ambulance and rescue services; and
 - 4) Seeking advice concerning preservation of a potential crime scene.
- ~~h)~~ Nothing in this Section relieves a ~~mandated~~~~mandates~~ reporter from the responsibility of making a report to an agency designated to receive ~~such~~ reports under the Elder Abuse and Neglect Act or to the Department.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Forever Green Illinois Program
- 2) Code Citation: 8 Ill. Adm. Code 241
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
241.10	New Section
241.20	New Section
241.30	New Section
241.40	New Section
241.50	New Section
241.60	New Section
- 4) Statutory Authority: Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103]
- 5) Effective Date of Rule: November 26, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal published in the *Illinois Register*: February 21, 2014; 38 Ill. Reg. 4549
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No. The companion emergency rulemaking (38 Ill. Reg. 6702) expired August 2, 2014.
- 14) Are there any rulemakings pending on this Part? No

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NOTICE OF ADOPTED RULES

- 15) Summary and Purpose of Rulemaking: Section 205-103 of the Civil Administrative Code of Illinois (20 ILCS 205/205-103) creates within the Illinois Department of Agriculture the Forever Green Illinois Program. The program is to be administered by the Department of Agriculture as provided in the Code and the rules. The program is established to maintain and beautify greenery on property owned or controlled by the State or a unit of local government. The program will consist of a series of pilot projects wherein the Department will execute cooperative agreements with a limited number of municipalities to remove a specified number of trees negatively impacting public and/or private property infrastructure and replant with more appropriate trees and/or shrubs.
- 16) Information and questions regarding this adopted rule shall be directed to:

Warren D. Goetsch, P.E.
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield IL 62794-9281

217/785-2427
fax: 217/524-4882

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

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER h: PESTS AND PLANT DISEASESPART 241
FOREVER GREEN ILLINOIS PROGRAM

Section

241.10	Definitions
241.20	General Provisions and Purpose
241.30	Eligibility
241.40	Priority to Existing Tree City USA Communities
241.50	Government Record of Problem Trees
241.60	Tree Removal and Greenery Placement

AUTHORITY: Implementing and authorized by Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103]

SOURCE: Adopted by emergency rulemaking at 38 Ill. Reg. 6702, effective March 6, 2014, for a maximum of 150 days; emergency expired August 2, 2014; adopted at 38 Ill. Reg. 23374, effective November 26, 2014.

Section 241.10 Definitions

"Participating Entity" means a State agency or unit of local government that has been selected by the Department as a participant of the Forever Green Illinois Program.

"Problem Trees" means trees located on property owned or controlled by the State or a unit of local government in a pilot project area that are currently damaging public or private infrastructure; are of ill health and are presently or may soon pose a threat to public safety; or are currently infested with an invasive insect pest or plant disease such as, but not limited to, the Emerald Ash Borer.

"Greenery" means grass, weeds, trees, shrubs, bushes, plants and other plant material.

Section 241.20 General Provisions and Purpose

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Section 205-103 of the Civil Administrative Code of Illinois [20 ILCS 205/205-103] creates within the Department the Forever Green Illinois Program, to be administered by the Department as provided in the Code and this Part. The program is established to maintain and beautify greenery on property owned or controlled by the State or a unit of local government. The goals of the program are to:

- a) Assist participating entities in dealing with negative impacts on community and private infrastructure from improperly maintained trees on public rights of way;
- b) Assist participating entities in dealing with the aftermath of devastating invasive insect pests and plant disease infestations, including, but not limited to, the Emerald Ash Borer; and
- c) Promote adoption of tree planting and maintenance programs for trees and other greenery intended to avoid future infrastructure damage from those plantings.

Section 241.30 Eligibility

- a) Participation in the Forever Green Illinois Program is limited to State agencies and units of local government for the maintenance and beautification of property owned or controlled by the State or a unit of local government.
- b) The Department will select and approve pilot projects for the Forever Green Illinois Program. These pilot projects will be identified and selected by the Department based on geographic size, location, need, local government interest, availability of local government resources, available funding, available contractors, and available Department staffing.
- c) Pilot projects may be conducted in one or more of the following counties: Cook, DeKalb, Jefferson, McDonough, McLean, Sangamon and St. Clair.

Section 241.40 Priority to Existing Tree City USA Communities

To assist the Department in establishing the pilot projects, existing Tree City USA communities shall be given priority for participation in the Forever Green Illinois Program.

Section 241.50 Government Record of Problem Trees

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A participating entity shall maintain a prioritized list of problem trees. The participating entity shall make this record available to the Department.

Section 241.60 Tree Removal and Greenery Placement

- a) After reviewing the participating entity's prioritized list of problem trees, the Department will determine the number of trees to be removed, as well as the number and type of trees and other greenery to be planted back on the public property.
- b) The Department may enter into intergovernmental agreements with participating entities whereby the participating entities would allow the Department's approved and credentialed contractors to remove up to 150 problem trees located on public property and to replace the removed trees with an appropriate combination of trees and/or other greenery from predetermined lists. The predetermined lists are entitled "Increasing Tree Diversity in the Urban Landscape – Northern Illinois", "Increasing Tree Diversity in the Urban Landscape – Central Illinois", and "Increasing Tree Diversity in the Urban Landscape – Southern Illinois" (revised 11/27/07) and are available from the Department at http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Northern_IL.pdf, http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Central_IL.pdf, and http://www.agr.state.il.us/eab/PDFs_for_web/Reforestation/Southern_IL.pdf, respectively.
- c) The Department may enter into intergovernmental agreements with participating entities whereby the participating entities would allow the Department's approved and credentialed contractors to place greenery on property owned or controlled by the participating entities.
- d) The participating entity shall be responsible for the removal and/or repair of any infrastructure that would be disturbed as a result of the tree removal or greenery placement process, such as, but not limited to, sidewalks, pavement and curbing.

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- 1) Heading of the Part: Construction and Filing of Accident and Health Insurance Policy Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2001.2	Amendment
2001.11	Amendment
2001.12	Amendment
- 4) Statutory Authority: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401]
- 5) Effective Date of Rule: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 16122; August 1, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

2001.2(a), in the 3rd line of the "Hospital indemnity" paragraph of the definition of "Excepted benefits": after "event" changed ", or paid on benefits paid on" to "or service, or upon benefits paid upon".

2001.11(a)(2)(A), first line: changed "qualified dental plan outside the Exchange" to "Exchange certified stand-alone dental plan that"

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2001.12(k): changed "Federally-Qualified" to "Federally Qualified; changed "federally-qualified health center" to "Federally Qualified Health Center".

2001.12(l): changed "federally-qualified health center" to "a Federally Qualified Health Center".

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 2001 as amended in January 2014 quotes ACA provisions with regard to Federally Qualified Health Centers (FQHCs) for qualified health plans. However, subsequent federal regulations were issued that stated that the FQHC could be paid either the Medicaid amount, or some other mutually agreed upon amount. Due to the fact that Part 2001 does not have the same language regarding "mutually agreed upon amount," issuers may be faced with the situation that some provider arrangements with FQHCs may not comport with this Part. Section 2001.12 needs to be amended so that it is consistent with the federal regulations.

Additionally, a new provision is being added in Section 2001.11 regarding the pediatric oral care benefit in connection with new policies issued outside of the Exchange. The benefit will be deemed satisfied if the health insurance issuer has obtained reasonable assurance that such benefits are provided.

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

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2001
CONSTRUCTION AND FILING OF ACCIDENT AND
HEALTH INSURANCE POLICY FORMS

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section	
2001.1	Applicability
2001.2	Definitions and Cross-References
2001.3	Discretionary Clauses Prohibited
2001.4	Guaranteed Availability and Renewability of Coverage
2001.5	Prohibition of Preexisting Condition Exclusions
2001.6	No Lifetime or Annual Limits
2001.7	Prohibition on Rescissions
2001.8	Coverage of Preventive Health Services
2001.9	Prohibiting Discrimination Against Participants and Beneficiaries Based on Health Status
2001.10	Summary of Benefits and Coverage and Uniform Glossary
2001.11	Essential Health Benefits
2001.12	Cost-Sharing

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section	
2001.20	Construction of Accident and Health Insurance Policy Forms (Renumbered)
2001.30	Filing of Policy Forms (Renumbered)
2001.110	Applicability
2001.120	Construction of Accident and Health Insurance Policy Forms
2001.130	Filing of Policy Forms

SUBPART C: PROVISIONS APPLICABLE TO GROUP POLICIES

2001.210	Applicability
2001.220	Ban on Excessive Waiting Periods

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AUTHORITY: Implementing Sections 143, 355 and 356a and Articles IX and XX of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, Arts. IX and XX] and Section 4-13 of the Health Maintenance Organization Act [215 ILCS 125/4-13] and authorized by Section 401 of the Code [215 ILCS 5/401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. 14405, effective October 25, 1996; amended at 29 Ill. Reg. 10172, effective July 1, 2005; amended at 31 Ill. Reg. 8472, effective May 31, 2007; amended at 38 Ill. Reg. 2037, effective January 2, 2014; amended at 38 Ill. Reg. 23379, effective November 25, 2014.

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section 2001.2 Definitions and Cross-References

- a) The following definitions shall apply to this Part:

"ACA" means the Patient Protection and Affordable Care Act (42 USC 18001 et seq.).

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Director" means the Director of the Illinois Department of Insurance.

"EHB" means essential health benefit or benefits.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended (29 USC 1001 et seq.).

"Excepted benefits", as defined at 26 USC 9832, means benefits under one or more (or any combination) of the following:

Benefits not subject to requirements:

Coverage only for accident, disability income insurance, or any combination thereof;

Coverage issued as a supplement to liability insurance;

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Liability insurance, including general liability insurance and automobile liability insurance;

Workers' compensation or similar insurance;

Automobile medical payment insurance;

Credit-only insurance;

Coverage for on-site medical clinics;

Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits.

Benefits not subject to requirements if offered separately:

Limited scope dental or vision benefits; and

Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Benefits not subject to requirements if offered as independent, noncoordinated benefits:

Coverage only for a specified disease or illness;

Hospital indemnity or other fixed indemnity insurance ~~under which benefits are~~ paid as a fixed dollar amount per day, or other period, ~~paid~~ per event or service, or upon benefits paid upon a basis other than period of time, regardless of the amount of expenses incurred.

Benefits not subject to requirements if offered as a separate insurance policy: Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act (42 USC 1395ss(g)(1)), coverage supplemental to the coverage provided under 10 USC 55, and similar supplemental coverage provided to coverage under a group health plan.

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"Health Benefits Exchange" or "Exchange" means the Illinois Health Benefits Exchange established pursuant to 42 USC 18031(b) and 215 ILCS 122/5-5, also known as the Illinois Health Insurance Marketplace.

"HHS" means the United States Department of Health and Human Services.

"Network Plan" means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care (including items and services paid for as medical care) are provided, in whole or in part, through a defined set of providers under contract with the issuer.

"PHS Act" means the Public Health Service Act (42 USC 201 et seq.).

"Preexisting condition exclusion" means a limitation or exclusion of benefits (including a denial of coverage) based on the fact that the condition was present before the effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan or group or individual health insurance coverage (or other coverage provided to federally eligible individuals pursuant to 45 CFR 148), whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that day. A preexisting condition exclusion includes any limitation or exclusion of benefits (including a denial of coverage) applicable to an individual as a result of information relating to an individual's health status before the individual's effective date of coverage (or if coverage is denied, the date of the denial) under a group health plan, or group or individual health insurance coverage (or other coverage provided to federally eligible individuals pursuant to 45 CFR 148), such as a condition identified as a result of a pre-enrollment questionnaire or physical examination given to the individual, or review of medical records relating to the pre-enrollment period. (See 45 CFR 144.103.)

"SBC" means summary of benefits and coverage.

"Secretary" means the Secretary of the United States Department of Health and Human Services, except when specified otherwise within this Part.

"Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period of time that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan. (See 42 USC 300gg(b)(4).)

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- b) In this Part, parenthetical cross-references following rule text are to the federal statutes or regulations relating to that Illinois rule provision.

(Source: Amended at 38 Ill. Reg. 23379, effective November 25, 2014)

Section 2001.11 Essential Health Benefits

- a) Coverage for Essential Health Benefits Package
- 1) A health insurance issuer that offers health insurance coverage in the individual or small group market shall ensure that the coverage includes an essential health benefits (EHB) package in accordance with the requirements in subsections (b) and (c). (See 42 USC 300gg-6(a).)
 - 2) The provisions of this Section regarding the inclusion of essential pediatric oral care benefits shall be deemed to be satisfied for qualified health plans made available in the small group market or individual market in Illinois outside the Health Benefits Exchange, issued for policy or plan years beginning on or after January 1, 2015, that do not include the essential pediatric oral care benefits if the health insurance issuer has obtained reasonable assurance that the pediatric oral care benefits are provided to the purchaser or enrollee of the qualified health plan. The health insurance issuer shall be deemed to have obtained reasonable assurance that the pediatric oral care benefits are provided to the purchaser of the qualified health plan if:
 - A) At least one Exchange certified stand-alone dental plan that offers the minimum essential pediatric oral care benefits that are required under subsection (c)(1)(J) and it is available for purchase by the small group or individual purchaser;
 - B) The health insurance issuer prominently discloses to the purchaser, or enrollee in the case of a group plan, in a form approved by the Director, at the time that it offers the qualified health plan, that the plan does not provide the essential pediatric oral care benefits; and
 - C) The health insurance issuer has received and kept records of written, verbal or electronic confirmation from the purchaser, or

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enrollee in the case of a group plan, that he or she has obtained, or is obtaining, other coverage that includes essential pediatric oral care benefits.

- b) Essential Health Benefits Package
In this Section, the term "essential health benefits package" means, with respect to any health plan, coverage that:
- 1) provides for the essential health benefits defined under subsection (c);
 - 2) limits cost-sharing for such coverage in accordance with Section 2001.12(a); and
 - 3) subject to Section 2001.12(i), provides either the bronze, silver, gold or platinum level of coverage described in Section 2001.12(b). (See 42 USC 18022(a) and (b).)
- c) Essential Health Benefits
- 1) In General
Subject to subsection (c)(3), essential health benefits shall include at least the following general categories and the items and services covered within the categories:
 - A) Ambulatory patient services;
 - B) Emergency services;
 - C) Hospitalization;
 - D) Maternity and newborn care;
 - E) Mental health and substance use disorder services, including behavioral health treatment;
 - F) Prescription drugs;
 - G) Rehabilitative and habilitative services and devices;

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- H) Laboratory services;
 - I) Preventive and wellness services and chronic disease management;
and
 - J) Pediatric services, including oral and vision care. ([See](#) 42 USC 18022(a) and (b).)
- 2) Background
- A) In August 2012, the Governor's Office convened a workgroup of representatives from a number of State agencies to develop a recommendation to the Healthcare Reform Implementation Council on Essential Health Benefits for qualified health plans in Illinois. This workgroup met several times over the course of two months.
 - B) The Patient Protection and Affordable Care Act defined 10 EHB that must be included in all Qualified Health Plans sold inside and outside the Health Benefits Exchange starting in 2014.
 - C) The 10 EHB are:
 - i) ambulatory patient services;
 - ii) emergency services;
 - iii) hospitalization;
 - iv) maternity and newborn care;
 - v) mental health and substance use disorder services, including behavioral health treatment;
 - vi) prescription drugs;
 - vii) rehabilitative and habilitative services and devices;
 - viii) laboratory services;

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- ix) preventive and wellness services and chronic disease management; and
 - x) pediatric services, including oral and vision care.
- D) The purpose of recommending a benchmark plan is to ensure that individuals who purchase health insurance will have a plan that covers the EHB and services outlined by the ACA.
- E) HHS set specific guidelines to establish EHB. HHS requires that states look at the insurance plans already sold in their markets and identify a "benchmark" plan that is representative of a "typical employer plan". This will help ensure that state insurance mandates are included, since any benchmark plan must already be available in a state.
- F) The authority to select a benchmark plan falls with the HHS Secretary, but the State was required to make a recommendation. HHS also facilitated a public comment period on the benchmark plan that the State recommends. It is the services that are provided by this particular plan that make up the EHB for Illinois. All insurers that sell products that are not excepted benefits in Illinois are required to include, at a minimum, the value of benefits and services dictated by the benchmark plan.
- G) The Health Care Reform Implementation Council intends to continuously review the benchmark selection over the next two years, at which point the State might have the option to change or amend the benchmark plan. The Council envisions an open process for feedback that engages stakeholders and ensures the minimum coverage offered in Illinois meets the needs of our residents.
- 3) **Specific Requirements**
Essential health benefits shall include those specific benefits and limits described in the Illinois EHB Benchmark Plan, as of September 1, 2013, published by the Centers for Medicare & Medicaid Services, 755 Security Boulevard, Baltimore, Maryland 21244
(<http://www.cms.gov/CCIIO/Resources/Data-Resources/ehb.html>). This

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regulation does not include any later amendments or editions, if any, to the Illinois EHB benchmark.

(Source: Amended at 38 Ill. Reg. 23379, effective November 25, 2014)

Section 2001.12 Cost-Sharing

- a) **Cost-Sharing Under Group Health Plans**

A group health plan shall ensure that any annual cost-sharing imposed under the plan does not exceed the limitations provided for under subsections (a)(1) and (2). (See 42 USC 300gg-6(b).) Requirements relating to cost-sharing are:

 - 1) **Annual Limitation on Cost-Sharing**
 - A) **2014**

The cost-sharing incurred under a health plan with respect to self-only coverage or coverage other than self-only coverage for a plan year beginning in 2014 shall not exceed the dollar amounts in effect under 26 USC 223(c)(2)(A)(ii) for self-only and family coverage, respectively, for taxable years beginning in 2014.
 - B) **2015 and Later**

In the case of any plan year beginning in a calendar year after 2014, the limitation under this subsection (a)(1)(B) shall:

 - i) in the case of self-only coverage, be equal to the dollar amount under subsection (a)(1)(A) for self-only coverage for plan years beginning in 2014, increased by an amount equal to the product of that amount and the premium adjustment percentage under subsection (a)(4) for the calendar year; and
 - ii) in the case of other coverage, twice the amount in effect under subsection (a)(1)(B)(i).
 - C) If the amount of any increase under subsection (a)(1)(B)(i) is not a multiple of \$50, such increase shall be rounded to the next lowest multiple of \$50.

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- 2) Annual Limitation on Deductibles for Employer-Sponsored Plans
 - A) In General
 - i) In the case of a health plan offered in the small group market, the deductible under the plan shall not exceed \$2,000 in the case of a plan covering a single individual and \$4,000 in the case of any other plan.
 - ii) The amounts under subsection (a)(3)(A)(i) may be increased by the maximum amount of reimbursement that is reasonably available to a participant under a flexible spending arrangement described in 26 USC 106(c)(2) (determined without regard to any salary reduction arrangement).
 - B) Indexing of Limits
In the case of any plan year beginning in a calendar year after 2014:
 - i) the dollar amount under subsection (a)(1)(A)(i) shall be increased by an amount equal to the product of that amount and the premium adjustment percentage under subsection (a)(4) for the calendar year; and if the amount of any increase under subsection (a)(2)(B)(i) is not a multiple of \$50, such increase shall be rounded to the next lowest multiple of \$50.
 - ii) the dollar amount under subsection (a)(1)(A)(ii) shall be increased to an amount equal to twice the amount in effect under subsection (a)(1)(A)(i) for plan years beginning in the calendar year, determined after application of subsection (a)(2)(B)(i).
 - C) Actuarial Value
The limitation under this subsection (a) shall be applied in such a manner so as to not affect the actuarial value of any health plan, including a plan in the bronze level.

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- D) **Coordination with Preventive Limits**
Nothing in this subsection (a) shall be construed to allow a plan to have a deductible under the plan apply to benefits described in section 2713 of the federal Public Health Service Act (45 CFR 130).
- 3) **Cost-Sharing**
- A) **In general, the term "cost-sharing" in this Section includes:**
- i) deductibles, coinsurance, copayments or similar charges; and
- ii) any other expenditure required of an insured individual that is a qualified medical expense (within the meaning of 26 USC 223(d)(2)) with respect to EHB covered under the plan.
- B) **Exceptions**
The term "cost-sharing" in this Section does not include premiums, balance billing amounts for non-network providers, or spending for non-covered services.
- 4) **Premium Adjustment Percentage**
For purposes of subsections (a)(1)(B)(i) and (a)(2)(B)(i), the premium adjustment percentage for any calendar year is the percentage (if any) by which the average per capita premium for health insurance coverage in the United States for the preceding calendar year (as estimated by the Secretary no later than October 1 of such preceding calendar year) exceeds such average per capita premium for 2013 (as determined by the Secretary). ([See](#) 42 USC 18022(c).)
- b) **Levels of Coverage**
The levels of coverage described in this subsection (b) are as follows:
- 1) **Bronze Level**
A plan in the bronze level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan.

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- 2) Silver Level
A plan in the silver level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under the plan.
 - 3) Gold Level
A plan in the gold level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 80 percent of the full actuarial value of the benefits provided under the plan.
 - 4) Platinum Level
A plan in the platinum level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 90 percent of the full actuarial value of the benefits provided under the plan. ([See 42 USC 18022\(d\)](#).)
- c) Actuarial Value (AV) Calculation for Determining Level of Coverage
- 1) Calculation of AV
Subject to subsection (c)(2), to calculate the AV of a health plan, the issuer must use the AV Calculator developed and made available by HHS.
 - 2) Exception to the Use of the AV Calculator
If a health plan's design is not compatible with the AV Calculator, the issuer must meet the following:
 - A) Submit the actuarial certification from an actuary, who is a member of the American Academy of Actuaries, on the chosen methodology identified in subsection (c)(2)(B) or (C).
 - B) Calculate the plan's AV by:
 - i) Estimating a fit of its plan design into the parameters of the AV Calculator; and
 - ii) Having an actuary, who is a member of the American Academy of Actuaries, certify that the plan design was fit

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appropriately in accordance with generally accepted actuarial principles and methodologies.

- C) Use the AV Calculator to determine the AV for the plan provisions that fit within the calculator parameters and have an actuary, who is a member of the American Academy of Actuaries, calculate and certify, in accordance with generally accepted actuarial principles and methodologies, appropriate adjustments to the AV identified by the calculator, for plan design features that deviate substantially from the parameters of the AV Calculator.
 - D) The calculation methods described in subsections (c)(2)(B) and (C) may include only in-network cost-sharing, including multi-tier networks.
- 3) Employer Contributions to Health Savings Accounts and Amounts Made Available Under Certain Health Reimbursement Arrangements
For plans other than those in the individual market that at the time of purchase are offered in conjunction with a Health Savings Account (HSA) or with integrated Health Reimbursement Accounts (HRAs) that may be used only for cost-sharing, annual employer contributions to HSAs and amounts newly made available under such HRAs for the current year are:
- A) Counted towards the total anticipated medical spending of the standard population that is paid by the health plan; and
 - B) Adjusted to reflect the expected spending for health care costs in a benefit year so that:
 - i) Any current year HSA contributions are accounted for; and
 - ii) The amounts newly made available under such integrated HRAs for the current year are accounted for.
- 4) Use of State-Specific Standard Population for the Calculation of AV
Beginning in 2015, if submitted by the State and approved by HHS, a State-specific data set will be used as the standard population to calculate AV in accordance with subsection (c)(1). The data set may be approved by HHS if it is submitted in accordance with subsection (c)(5) and:

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- A) Supports the calculation of AVs for the full range of health plans available in the market;
 - B) Is derived from a non-elderly population and estimates those likely to be covered by private health plans on or after January 1, 2014;
 - C) Is large enough that:
 - i) The demographic and spending patterns are stable over time; and
 - ii) It includes a substantial majority of the State's insured population, subject to the requirement in subsection (c)(4)(B);
 - D) Is a statistically reliable and stable basis for area-specific calculations; and
 - E) Contains claims data on health care services typically offered in the then-current market.
- 5) **Submission of State-Specific Data**
AV will be calculated using the default standard population described in subsection (c)(6), unless a data set in a format specified by HHS that can support the use of the AV Calculator as described in subsection (c)(1) is submitted by a State and approved by HHS consistent with subsection (c)(4) by a date specified by HHS.
- 6) **Default Standard Population**
The default standard population for AV calculation will be developed and summary statistics, such as in continuance tables, will be provided by HHS in a format that supports the calculation of AV as described in subsection (c)(1). ([See](#) 45 CFR 156.135.)
- d) **Actuarial Value Levels of Coverage**
- 1) **General Requirement for Levels of Coverage**

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AV, calculated as described in subsection (c), and within a de minimis variation as defined in subsection (d)(3), determines whether a health plan offers a bronze, silver, gold or platinum level of coverage.

- 2) The levels of coverage are:
 - A) A bronze health plan is a health plan that has an AV of 60 percent.
 - B) A silver health plan is a health plan that has an AV of 70 percent.
 - C) A gold health plan is a health plan that has an AV of 80 percent.
 - D) A platinum health plan is a health plan that has as an AV of 90 percent.

- 3) De Minimis Variation
The allowable variation in the AV of a health plan that does not result in a material difference in the true dollar value of the health plan is ± 2 percentage points. ([See](#) 45 CFR 146.140.)

e) Determination of Minimum Value

- 1) Acceptable Methods for Determining Minimum Value
An employer-sponsored plan provides minimum value (MV) if the percentage of the total allowed costs of benefits provided under the plan is no less than 60 percent. An employer-sponsored plan may use one of the following methods to determine whether the percentage of the total allowed costs of benefits provided under the plan is not less than 60 percent:
 - A) The MV Calculator to be made available by HHS and the Internal Revenue Service. The result derived from the calculator may be modified under subsection (e)(2).
 - B) Any safe harbor established by HHS and the Internal Revenue Service.
 - C) If the plan is a group health plan, it may seek certification by an actuary to determine MV if the plan contains non-standard features

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that are not suitable for either of the methods described in subsections (e)(1)(A) or (B). The determination of MV must be made by a member of the American Academy of Actuaries, based on an analysis performed in accordance with generally accepted actuarial principles and methodologies.

- D) If the plan is in the small group market that meets any of the levels of coverage, as described in subsection (d), it satisfies MV.
- 2) Benefits that May Be Counted Towards the Determination of MV
- A) In the event that a group health plan uses the MV Calculator and offers an EHB outside of the parameters of the MV Calculator, the plan may seek an actuary, who is a member of the American Academy of Actuaries, to determine the value of that benefit and adjust the result derived from the MV Calculator to reflect that value.
- B) For the purposes of applying the options described in subsection (e)(1) in determining MV, a group health plan will be permitted to take into account all benefits provided by the plan that are included in any one of the EHB benchmarks.
- 3) Standard Population
The standard population for MV determinations described in subsection (e)(1) is the standard population developed by HHS for such use and described through summary statistics issued by HHS. The standard population for MV must reflect the population covered by self-insured group health plans.
- 4) Employer Contributions to Health Savings Accounts and Amounts Made Available Under Certain Health Reimbursement Arrangements
For employer-sponsored self-insured group health plans and insured group health plans that at the time of purchase are offered in conjunction with an HSA or with integrated HRAs that may be used only for cost-sharing, annual employer contributions to HSAs and amounts newly made available under such HRAs for the current year are:

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- A) Counted towards the total anticipated medical spending of the standard population that is paid by the health plan; and
 - B) Adjusted to reflect the expected spending for health care costs in a benefit year so that:
 - i) Any current year HSA contributions are accounted for; and
 - ii) The amounts newly made available under such integrated HRAs for the current year are accounted for. (45 CFR 156.145)
- f) **Application**
In determining the percentage of the total allowed costs of benefits provided under a group health plan or health insurance coverage that are provided by such plan or coverage, this Section shall apply. ([See](#) 42 USC 18022(d)(2)(C).)
- g) **Allowable Variance**
There may be a de minimis variation in the actuarial valuations used in determining the level of coverage of a plan to account for differences in actuarial estimates. ([See](#) 42 USC 18022(d)(3).)
- h) **Plan Reference**
In this Section, any reference to a bronze, silver, gold or platinum plan shall be treated as a reference to a qualified health plan providing a bronze, silver, gold or platinum level of coverage, as the case may be. ([See](#) 42 USC 18022(d)(4).)
- i) **Catastrophic Plan**
 - 1) **In General**
A health plan not providing a bronze, silver, gold or platinum level of coverage shall be treated as meeting the requirements of subsection (b) with respect to any plan year if:
 - A) the only individuals who are eligible to enroll in the plan are individuals described in subsection (c)(2); and
 - B) the plan provides:

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- i) except as provided in subsection (c)(1)(B)(ii) ~~of this Section~~, the essential health benefits determined under Section 2001.11(c), except that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (a)(1) ~~of this Section~~ for the plan year (except as provided for in PHS Act section 2713); and
 - ii) coverage for at least three primary care visits.
- 2) **Individuals Eligible for Enrollment**

An individual is described in this subsection (i)(2) for any plan year if the individual:

 - A) has not attained the age of 30 before the beginning of the plan year; or
 - B) has a certification in effect for any plan year under this Part that the individual is exempt from the requirement under 26 USC 5000A by reason of:
 - i) 26 USC 5000A(e)(1) (relating to individuals without affordable coverage); or
 - ii) 26 USC 5000A(e)(5) (relating to individuals with hardships).
- 3) **Restriction to Individual Market**

If a health insurance issuer offers a health plan described in this subsection (i), the issuer may only offer the plan in the individual market. (See 42 USC 18022(e).)
- j) **Child-Only Plans**

If a qualified health plan is offered through the Health Benefits Exchange in any level of coverage specified under subsection (c), the issuer shall also offer that plan through the Health Benefits Exchange in that level as a plan in which the only enrollees are individuals who, as of the beginning of a plan year, have not

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attained the age of 21, and such plan shall be treated as a qualified health plan. (See 42 USC 18022(f).)

- k) Payments to ~~Federally Qualified~~ Federally Qualified Health Centers
If any item or service covered by a qualified health plan is provided by a ~~Federally Qualified Health Center~~ federally-qualified health center (as defined in 42 USC 1396d(1)(2)(B)) to an enrollee of the plan, the offeror of the plan shall pay to the center for the item or service an amount that is not less than the amount of payment that would have been paid to the center under 42 USC 1396a(bb)) for such item or service. (See 42 USC 18022(g).)
- l) Mutually Agreed Payment Rates
Nothing in subsection (k) precludes a Qualified Health Plan issuer and a Federally Qualified Health Center from mutually agreeing upon payment rates other than those that would have been paid to the center under 42 USC 1396a(bb), as long as the mutually agreed upon rates are at least equal to the generally applicable payment rates of the issuer indicated in 45 CFR 156.235(d). (See 45 CFR 156.235(e).)

(Source: Amended at 38 Ill. Reg. 23379, effective November 25, 2014)

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- 1) Heading of the Part: Minimum Standards of Individual Accident and Health Insurance
- 2) Code Citation: 50 Ill. Adm. Code 2007
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2007.50	Amendment
2007.60	Amendment
2007.80	Amendment
- 4) Statutory Authority: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401] and 42 USC 300gg-22; 45 CFR 150.101(b)(2) and 150.201
- 5) Effective Date of Rule: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 16528; August 8, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

2007.50, definition of "Accident and Accidental Injury", 8th line: restore the quotation mark after "force."

2007.50, definition of "Excepted Benefits", 38th line: add "or service", after "per event".

2007.60(e)(5), after (A) add a new paragraph: "B) with respect to excepted benefit policies and grandfathered health plans, suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;". After that, change existing "B)" to "C)" and change existing "C)" to "D)".

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2007.80(a)(11)(A), 3rd – 6th lines: Change "as defined by CMS-9949-F-55 meaning of section 5000A(f)" to "within the meaning of 26 USC 5000A(f), or that they are treated as having minimum essential coverage due to their status as a bona fide resident of any possession of the United States pursuant to 26 USC 5000A(f)(4)(B)."

2007.80(a)(11)(B): 1st line, delete "above" and after "requirement" add "of subsection (a)(11)(A)"; 5th line, strike all text after "2015," and change the final comma to a period. Following that paragraph, add new subsections (C), (D) and (E):

- C) These notice and attestation requirements do not apply to individual hospital indemnity or other fixed indemnity insurance policies issued before January 1, 2015 that do not require an application as a condition of renewal, are guaranteed renewable or non-cancelable, and only condition renewal on the timely payment of premiums with no renewal application form required.
- D) These notice and requirements apply only to hospital indemnity or other fixed indemnity insurance policies sold in the individual market. They do not apply to any other type or category of insurance that is listed separately as an excepted benefit in the federal Public Health Service Act (e.g., disability income insurance, specified disease insurance, accident only insurance, etc.), regardless of whether the benefits under that coverage are paid as a fixed dollar amount per day or other period, or per service.
- E) These notice and attestation requirements do not apply to individual hospital indemnity or other fixed indemnity insurance policyholders who are age 65 or older and are enrolled in Medicare.

- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: For consistency, the Department is removing language found in 2007.60 (g) that appears to permit exclusion for suicide or attempted suicide. The allowable exclusion for suicide (sane or insane), attempted suicide or intentionally self-inflicted injury was previously removed from 2007.60 (e) (5). Also,

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2007.50 Definitions is being revised to define "Fixed Indemnity Plans" and potentially confusing language is being deleted from 2007.60(e)(13).

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

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

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

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCEPART 2007
MINIMUM STANDARDS OF INDIVIDUAL ACCIDENT
AND HEALTH INSURANCE

Section	
2007.10	Authority
2007.20	Purpose
2007.30	Applicability
2007.40	Revision of Noncomplying Policy Form and Subscriber Contracts Certificate of Compliance Required
2007.50	Definitions
2007.60	Prohibited Policy Provisions
2007.70	Accident and Health Minimum Standards for Benefits
2007.80	Required Disclosure Provisions
2007.90	Requirements for Replacement
2007.100	Severability

AUTHORITY: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401] and 42 USC 300gg-22; 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Adopted at 2 Ill. Reg. 30, p. 41, effective August 1, 1978; amended at 4 Ill. Reg. 45, p. 102, effective March 1, 1981; amended at 6 Ill. Reg. 7072, effective May 27, 1982; codified at 7 Ill. Reg. 10591; amended at 12 Ill. Reg. 6921, effective April 1, 1988; amended at 15 Ill. Reg. 7658, effective May 7, 1991; amended at 19 Ill. Reg. 16555, effective December 5, 1995; amended at 38 Ill. Reg. 2138, effective January 2, 2014; amended at 38 Ill. Reg. 23400, effective November 25, 2014.

Section 2007.50 Definitions

Except as provided hereafter, no individual accident or health insurance policy delivered or issued for delivery to any person in this State shall contain definitions respecting the matters set forth in this Part unless the definitions comply with the requirements of this Section.

"ACA" means the Patient Protection and Affordable Care Act² (42 USC 18001 et

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seq.).

"Accident and Accidental Injury" shall be defined to employ "result" language and shall not include words that establish an accidental means test or use words such as "external", "violent", "visible" or similar words of description or characterization. The definition shall not be more restrictive than the following: "Injury or injuries, for which benefits are provided, means accidental bodily injuries sustained by the insured person which are the direct cause of loss, independent of disease cause of loss, independent of disease or bodily infirmity and occurring while the insurance is in force."

AGENCY NOTE: The fact that the injury combined with other factors to produce the loss does not necessarily relieve the insurer of liability. Each claim must be judged on the basis of its particular facts and in light of the court decisions, to determine whether the injury is to be considered as the cause of the loss.

The definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, motor vehicle no-fault plan, unless prohibited by law, or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment or occupation for wage or profit.

"Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility" shall be defined in relation to its status, facilities and available services.

A definition of the home or facility shall not be more restrictive than one requiring that it:

be operated pursuant to law;

be approved for payment of Medicare benefits or be qualified to receive approval, if so requested;

be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

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maintains a daily medical record of each patient.

The definition of a home or facility may provide that the term shall not be inclusive of:

any home, facility or part thereof used primarily for rest;

a home or facility for the aged or for the care of drug addicts or alcoholics;
or

a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

"Excepted Benefits", for purposes of this Part, means benefits under one or more (or any combination thereof) of the following:

Benefits not subject to requirements:

Coverage only for accident or disability income insurance, or any combination thereof;

Coverage issued as a supplement to liability insurance;

Liability insurance, including general liability insurance and automobile liability insurance;

Workers' compensation or similar insurance;

Automobile medical payment insurance;

Credit-only insurance;

Coverage for on-site medical clinics; or

Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits.

Benefits not subject to requirements if offered separately:

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Limited scope dental or vision benefits; and

Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Benefits not subject to requirements if offered as independent, noncoordinated benefits:

Coverage only for a specified disease or illness; or

Hospital indemnity or other fixed indemnity insurance paid as a fixed dollar amount per day or other period, ~~or~~ per event or service or upon benefits paid upon a basis other than period of time, regardless of the amount of expenses incurred.

Benefits not subject to requirements if offered as separate insurance policy Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act (42 USC 1395ss(g)(1))), coverage supplemental to the coverage provided under 10 USC 55, and similar supplemental coverage provided to coverage under a group health plan. (26 USC 9832)

"Grandfathered Health Plan" means any group health plan or health insurance coverage in which an individual was enrolled on the date of the enactment of the ACA and shall have the same meaning as set forth in section 18011 of the Public Health and Welfare Act (42 USC 18011).

"Home Health Care Agency" shall not be defined more restrictively than a public agency or private organization that provides skilled nursing services and meets the following requirements:

It is primarily engaged in providing home health care services;

Its policies are established by a group of professional personnel (including at least one physician and one registered nurse (R.N.));

Supervision of home health care services is provided by a physician or a registered nurse (R.N.);

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It maintains clinical records on all patients; and

It has a full time administrator.

"Home Health Care" shall not be defined more restrictively than skilled nursing care or services provided to a person at a residence according to a plan of treatment for illness or infirmity prescribed by a physician. These services shall include, but are not limited to, the following:

Part time and intermittent skilled nursing services – Services given to a patient at least once every 60 days or as frequently as a few hours per day, several days per week.

Therapeutic Services:

Physical Therapy;

Occupational Therapy;

Speech and Hearing Therapy;

Medical social services, medical supplies, drugs and medicines prescribed by a physician and related pharmaceutical services and laboratory services to the extent the charges or costs would have been covered under the policy if the insured person had remained in the hospital.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission.

The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

be an institution operated pursuant to the law; and

be primarily and continuously engaged in providing or operating medical and diagnostic facilities, with major surgical facilities either on its premises or in facilities available to the hospital on a prearranged basis, under the supervision of a staff of duly licensed

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physicians, for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and

provide 24 hours nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

The definition of the term "hospital" may state that such term shall not be inclusive of:

convalescent, rest or nursing homes or facilities;

facilities primarily affording custodial or educational care or care or treatment for persons suffering from mental diseases or disorders;

facilities for the aged, mentally ill, drug addicts or alcoholics (except for a unit of a hospital dedicated to the treatment of drug addicts or alcoholics or the mentally ill); or

any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for those services.

"Medicare" shall be defined in any hospital, surgical or medical expense policy that relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Subchapter XVIII of the Social Security Amendments of 1965 as then constituted or later amended (42 USC 1395 et seq.)" or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act (42 USC 395 et seq.), as then constituted and any later amendments or substitutes thereof" or words of similar import.

"Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease, disorder or condition, including serious mental illness and

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substance use disorder or condition.

"Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as a registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse", "trained nurse" or "registered nurse" are used without specific instruction, then the use of those terms requires the insurer to recognize the services of any individual who qualifies under that terminology in accordance with the applicable statutes or administrative rules of the state licensing or registry board.

"One Period of Confinement or Continuous Hospital Confinement " means consecutive days of in-hospital service received as an in-patient, or successive confinements when discharge from and readmission to the hospital occurs within a period of time not more than 90 days or three times the maximum number of days of in-hospital coverage provided by the policy to a maximum of 180 days, whichever is greater.

"Partial Disability" shall be defined in relation of the individual's inability to perform one or more, but not all, of the "major", "important", or "essential" duties of employment or occupation or may be related to a percentage of time worked, to a specified number of hours or to compensation. When a policy provides total disability benefits and partial disability benefits, only one elimination period may be required.

"Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician". The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when the services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws dealing with physician licensure.

"Residual Disability" shall be defined in relation to the individual's reduction in earnings and may be related either to the inability to perform some part of the "major," "important," or "essential" duties of employment or occupation, or to the inability to perform all usual business for as long as is usually required. A policy that provides for residual disability benefits may require a qualification period, during which the insured must be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term

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"residual disability", the insurer may use "proportionate disability" or other term of similar import that, in the opinion of the Director, adequately and fairly describes the benefit.

"Sickness" shall not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force." A definition of sickness may provide for a probationary period that will not exceed 30 days from the effective date of the coverage of the insured person. The definition may be further modified to exclude sickness or disease for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

"Total Disability"

A general definition of total disability cannot be more restrictive than one requiring the individual to be totally disabled from engaging in any employment or occupation that he or she could, giving due consideration of his education, training or experience be reasonably expected to engage in and is not in fact engaged in any employment or occupation for wage or profit.

Total disability may be defined in relation to the inability of the person to perform duties but may not be based solely upon an individual's inability to:

Perform "any occupation whatsoever", "any occupational duty", or "any and every duty of his or her occupation";

Engage in any training or rehabilitation program.

An insurer may specify the requirement of the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may require care by a physician other than the insured or a member of the insured's immediate family.

When through a specific provision of a policy, disability coverage is provided to a retired person, the definition shall not require more than the

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insured be completely unable to engage in the normal activities of a retired person of like age and good health.

(Source: Amended at 38 Ill. Reg. 23400, effective November 25, 2014)

Section 2007.60 Prohibited Policy Provisions

- a) Except as provided in the Section 2007.50 definition of "sickness", no policy shall contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy. An excepted benefit policy may specify a probationary or waiting period not to exceed six months for specified diseases or conditions and losses resulting therefrom for hernia, varicose veins, adenoids, appendix and tonsils. However, the permissible six months exception shall not be applicable when the specified diseases or conditions are treated on an emergency basis. Accident policies shall not contain a probationary or waiting period.
- b) No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to the dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than six months.
- c) A disability policy, hospital confinement indemnity policy or specified disease policy may contain a "return of premium" or "cash value benefit" so long as:
 - 1) The policy provides for a return of 100% of all premiums paid less the claims incurred by the time the insured attains age 65. A percentage of less than 100%, but greater than 50%, is permissible if the "return of premium" or "cash value benefit" has been in force for 10 years or less;
 - 2) The policy contains a reasonable nonforfeiture benefit and provides for the value to be paid automatically upon lapse or death;
 - 3) The surrender value percentages are not less than those calculated assuming 1958 Commissioners Standard Ordinary Mortality, 5% interest and 5 year preliminary term;
 - 4) An acceptable method of reserving is approved by the Director concurrent with approval of the policy. Reserves should exceed or equal the cash value at all durations;

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- 5) The surrender value percentages are calculated assuming a zero percent future claim offset;
 - 6) The surrender value percentages are defined for all policy years (surrender value percentages may be shown only for the first 20 policy years, but under these conditions the contract shall define the method used to determine the surrender value percentages after the 20th contract year);
 - 7) The interim surrender value percentages are defined when premiums are paid within a contract year;
 - 8) The policy does not tie the return of premium to anything less than 100% of the premiums paid less claims paid.
- d) When a liability exists for charges made to or on behalf of the insured or covered dependents, Accident and Health policies shall not contain provisions excluding coverage for:
- 1) Confinement in a hospital operated by a federal, state or local government;
 - 2) Charges for medical services provided by a federal, state or local government.
- e) No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:
- 1) With respect to excepted benefit policies and grandfathered health plans, preexisting conditions or diseases;
 - 2) With respect to excepted benefit policies and grandfathered health plans, mental or emotional disorders, alcoholism, intoxication and drug addiction (policies that exclude benefits for alcoholism or intoxication shall provide the following definition: "That which is defined and determined by the laws of the state where the loss or cause of the loss was incurred");
 - 3) With respect to excepted benefit policies and grandfathered health plans, pregnancy, except for complications of pregnancy;

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- 4) With respect to excepted benefit policies and grandfathered health plans, rehabilitative care, except that when benefits, in whole or in part, would be payable for the care under the terms of coverage, those benefits shall not be denied on the basis that the care or treatment was provided, in whole or in part, in a rehabilitation institution, if the institution was a fully accredited hospital as defined in Section 2007.50 at the time care or treatment was provided;
- 5) Injury, illness, treatment or medical condition arising out of:
 - A) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or auxiliary units;
 - B) with respect to excepted benefit policies and grandfathered health plans, suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;
 - ~~C~~) aviation;
 - ~~D~~) with respect to short-term nonrenewable policies, interscholastic sports;
- 6) Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;
- 7) With respect to excepted benefit policies and grandfathered health plans, foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;
- 8) Benefits provided under Medicare, any state or federal worker's compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance;
- 9) Dental care or treatment for adults;

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- 10) Eye glasses, hearing aids and examination for the prescription or fitting of eye glasses or hearing aids for adults;
 - 11) Rest cures, custodial care, transportation and routine physical examinations;
 - 12) Territorial limitations;
 - 13) Sex change surgery, with respect to excepted benefit policies and grandfathered health plans, or surgical sterilization;
 - 14) Tests or x-rays not related to diagnosis;
 - 15) With respect to excepted benefit policies and grandfathered health plans, infertility;
 - 16) Drugs, therapies, procedures or treatments that are determined in coordination with the attending physician to not be medically necessary;
 - 17) With respect to excepted benefit policies and grandfathered health plans, weight reduction procedures, treatments or classes (except for morbid obesity);
 - 18) With respect to excepted benefit policies and grandfathered health plans, smoking cessation classes or patches.
- f) No provision of this Part shall prohibit the use of any policy provision that is required or permitted by statute. With respect to excepted benefit policies and grandfathered health plans, other provisions of this Part shall not impair or limit the use of waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases, physical condition or extra hazardous activity. When waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required unless on initial issuance the full text of the waiver is contained either on the first page or specification page of the policy, or unless notice of the waiver appears on the first page or specification page.
- g) No policy, rider or endorsement providing benefits for loss due to an accident or

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accidental injury shall contain a provision or clause limiting, reducing or excluding liability for a loss resulting from purely accidental circumstances (e.g., involuntary or unintentional ingestion of poison or inhalation of poisonous gases or fumes). This restriction shall not preclude ~~the exclusion of loss due to suicide or attempted suicide by properly drawn language nor shall it preclude~~ approval of a benefit for loss from defined accidents, such as travel, sport and student accident insurance.

- h) No policy, rider or endorsement shall limit or exclude coverage for illness, accident, treatment or medical condition by using a general exclusion for complications arising from a covered condition or the treatment of a covered condition. This restriction shall not preclude the exclusion of loss due to complications that are specifically named.
- i) Policy provisions precluded in this Section shall not be construed as a limitation on the authority of the Director to disapprove other policy provisions in accordance with Section 143(1) of the Illinois Insurance Code [215 ILCS 5/143(1)] that, in the opinion of the Director, are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary, or any person insured under the policy.

(Source: Amended at 38 Ill. Reg. 23400, effective November 25, 2014)

Section 2007.80 Required Disclosure Provisions

- a) General Rules
 - 1) Each individual policy of accident and health insurance shall include a renewal, continuation or nonrenewal provision. The language or specifications of the provision must be consistent with the requirements of 50 Ill. Adm. Code 2001.Subpart A and the type of plan issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, when limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.
 - 2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a

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policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to by the insured, except if the increased benefits or coverage is required by law.

- 3) When a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.
- 4) A policy that provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import shall include a definition of those terms and an explanation of those terms in its accompanying outline of coverage.
- 5) If a policy providing excepted benefits or a grandfathered health plan contains any limitations with respect to preexisting conditions, those limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations".
- 6) All accident only policies shall contain a prominent statement on the first page of the policy or attached to the policy in either contrasting color or in boldface type at least equal to the size of type used for policy captions, a prominent statement as follows:

"This is an accident only policy and it does not pay benefits for loss from sickness."
- 7) All policies, except single premium nonrenewal policies, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance, that the policyholder shall have the right to return the policy within 10 days after its delivery and to have the premium refunded if after examination of the policy the policyholder is not satisfied for any reason.
- 8) If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy as originally issued, that fact must be prominently set forth in the outline of coverage.

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- 9) If a policy contains a conversion privilege, it shall comply, in substance, with the following: the caption of the provision shall be "Conversion Privilege", or words of similar import. The provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised. The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.
- 10) All specified disease policies shall contain a prominent statement on the first page of the policy in contrasting color and in bold face type at least equal to the size of type used for policy captions, a prominent statement as follows: "This is a limited policy. Read it carefully."

11) Notice Requirements:

- A) At the time of purchase of fixed indemnity contracts, all applicants must attest to being enrolled in minimum essential coverage (MEC) within the meaning of 26 USC 5000A(f), or that they are treated as having minimum essential coverage due to their status as a bona fide resident of any possession of the United States pursuant to 26 USC 5000A(f)(4)(B). The fixed indemnity insurer must provide notice within the application indicating that the fixed indemnity is not MEC that satisfies the ACA individual mandate. That notice must contain the following verbiage displayed prominently in the plan materials in at least 14-point type that has the following language:

"THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES."

- B) The notice requirement of subsection (a)(11)(A) applies to all hospital or other fixed indemnity insurance policy years beginning on or after January 1, 2015, and the attestation requirement of

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subsection (a)(11)(A) applies to hospital or other fixed indemnity insurance policies issued on or after January 1, 2015.

- C) These notice and attestation requirements do not apply to individual hospital indemnity or other fixed indemnity insurance policies issued before January 1, 2015 that do not require an application as a condition of renewal, are guaranteed renewable or non-cancelable, and only condition renewal on the timely payment of premiums with no renewal application form required.
- D) These notice and requirements apply only to hospital indemnity or other fixed indemnity insurance policies sold in the individual market. They do not apply to any other type or category of insurance that is listed separately as an excepted benefit in the federal Public Health Service Act (e.g., disability income insurance, specified disease insurance, accident only insurance, etc.), regardless of whether the benefits under that coverage are paid as a fixed dollar amount per day or other period, or per service.
- E) These notice and attestation requirements do not apply to individual hospital indemnity or other fixed indemnity insurance policyholders who are age 65 or older and are enrolled in Medicare.

b) Outline of Coverage Requirements for Individual Coverages

- 1) No individual accident and health insurance policy shall be delivered or issued for delivery in this State unless an appropriate Summary of Benefits, in accordance with 50 Ill. Adm. Code 2001.10, that includes an outline of coverage as prescribed in subsections (c) through (l) is completed as to the policy and is delivered in accordance with Section 355a(5)(a) of the Illinois Insurance Code [215 ILCS 5/355a(5)(a)].
- 2) In the event that a policy is issued on a basis other than that applied for, an outline of coverage properly describing the policy must accompany the policy when it is delivered and, if an outline of coverage was delivered earlier, contain the following statement, in not less than 12 point type, immediately above the company name:

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Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.

- 3) In those cases in which a policy designed to supplement existing coverage is approved, the outline of coverage shall prominently state that coverage is designed to supplement other health insurance policies owned by the insured.
 - 4) The appropriate outline of coverage for policies providing hospital coverage that only meets the standards of Section 2007.70(b)(2) shall be that statement contained in subsection (c) of this Section. The appropriate outline of coverage for policies providing coverage that meets the standards of both Section 2007.70(b)(2) and (3) shall be the statement contained in subsection (e) of this Section. The appropriate outline of coverage for policies providing coverage that meets the standards of Section 2007.70(b)(2) and (5), (b)(3) and (5), or (b)(2), (3) and (5) shall be the statement contained in subsection (g) of this Section.
- c) **Basic Hospital Expense Coverage (Outline of Coverage)**
An outline of coverage, in the form prescribed in this subsection (c), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
BASIC HOSPITAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

- 1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

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- 2) Basic Hospital Expense Coverage – Policies of this category are designed to provide to persons insured coverage for hospital expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, and hospital outpatient services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for physicians or surgeons fees or unlimited hospital expenses.
 - 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy in the following order:
 - A) daily hospital room and board;
 - B) miscellaneous hospital services;
 - C) hospital out-patient services; and
 - D) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.
 - 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (c)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to charge premiums.)
- d) Basic Medical-Surgical Expense Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(3). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

BASIC MEDICAL-SURGICAL EXPENSE COVERAGE

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OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control your policy. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) Basic Medical-Surgical Expense Coverage – Policies of this category are designed to provide to persons insured coverage for medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for hospital expenses or unlimited medical surgical expenses.
- 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:
 - A) surgical services;
 - B) anesthesia services;
 - C) in-hospital medical services; and
 - D) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.
- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (d)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to

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change premiums.)

- e) Basic Hospital and Medical Surgical Expense Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2) and (3). The items included in the outline of coverage must appear in the sequence prescribed.

(COMPANY NAME)

BASIC HOSPITAL AND MEDIAL SURGICAL
EXPENSE COVERAGE OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) Basic Hospital and Medical Surgical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for hospital and medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, hospital out-patient services, surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for unlimited hospital or medical-surgical expenses.
- 3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:
 - A) daily hospital room and board;
 - B) miscellaneous hospital services;
 - C) hospital out-patient services;

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- D) surgical services;
- E) anesthesia services;
- F) in-hospital medical services; and
- G) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (e)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- f) Hospital Confinement Indemnity Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(4). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

HOSPITAL CONFINEMENT INDEMNITY COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) Hospital Confinement Indemnity Coverage – Policies of this category are designed to provide to persons insured, coverage in the form of a fixed daily benefit during periods of hospitalization resulting from a covered

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accident or sickness, subject to any limitations set forth in the policy. These policies do not provide any benefits other than the fixed daily indemnity for hospital confinement and any additional benefit described in subsections (f)(3) through (f)(6).

- 3) (A brief specific description of the benefits contained in this policy, in the following order:
- A) daily benefit payable during hospital confinement; and
 - B) duration of benefit described in (A).)

AGENCY NOTE: The description of benefits in this subsection (f)(3) shall be stated clearly and concisely.

- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (f)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- 6) (Any benefits provided in addition to the daily hospital benefit.)
- g) Major Medical Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed in this subsection (g), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(5). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
MAJOR MEDICAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and

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your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

- 2) Major Medical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for major hospital, medical, and surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, surgical services, anesthesia services, in-hospital medical services, and out of hospital care, subject to any deductibles, co-payment provisions, or other limitations that may be set forth in the policy. Basic hospital or basic medical insurance coverage is not provided.
- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy, in the following order:
 - A) daily hospital room and board;
 - B) miscellaneous hospital services;
 - C) surgical services;
 - D) anesthesia services;
 - E) in-hospital medical services;
 - F) out of hospital care;
 - G) maximum dollar amount for covered charges; and
 - H) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

- 4) (A description of policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (g)(3).)

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- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- h) Disability Income Protection Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(6). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
DISABILITY INCOME PROTECTION COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) Disability Income Protection Coverage – Policies of this category are designed to provide, to persons insured, coverage for disabilities resulting from a covered accident or sickness, subject to any limitations set forth in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.
- 3) (A brief specific description of the benefits contained in this policy:)
- AGENCY NOTE: The description of benefits shall be stated clearly and concisely.
- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (h)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

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- i) Accident Only Coverage (Outline of Coverage)
An outline of coverage in the form prescribed in this subsection (i) shall be issued in connection with policies meeting the standards of Section 2007.70(b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY)
ACCIDENT ONLY COVERAGE
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
 - 2) Accident Only Coverage – Policies of this category are designed to provide, to persons insured, coverage for certain losses resulting from a covered accident ONLY, subject to any limitations contained in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.
 - 3) (A brief specific description of the benefits contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(e).
 - 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (i)(3).)
 - 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)
- j) Specified Disease or Specified Accident Coverage (Outline of Coverage)

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An outline of coverage in the form prescribed in this subsection (j), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(8). The coverage shall be identified by the appropriate bracketed title. The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
(SPECIFIED DISEASE) (SPECIFIED ACCIDENT COVERAGE)
OUTLINE OF COVERAGE

- 1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!
- 2) (Specified Disease) (Specified Accident) Coverage – Policies of this category are designed to provide, to persons insured, restricted coverage paying benefits ONLY when certain losses occur as a result of (specified diseases) or (specified accidents). Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.
- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(b)(1)(L).
- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (j)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restriction or any reservation of right to change premiums.)

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- k) **Limited Benefit Health Coverage (Outline of Coverage)**
An outline of coverage, in the form prescribed below, shall be issued in connection with policies that do not meet the minimum standards of Section 2007.70(b)(2) through (b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
**LIMITED BENEFIT HEALTH COVERAGE
OUTLINE OF COVERAGE**

- 1) **Read Your Policy Carefully** – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**
- 2) **Limited Benefit Health Coverage** – Policies of this category are designed to provide, to persons insured, limited or supplemental coverage.
- 3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(b)(1)(L).
- 4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (k)(3).)
- 5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

- l) **Non-Conventional Coverage (Outline of Coverage)**
The outline of coverage shall include the following information:

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- 1) The name and principal address of the insurer.
- 2) An appropriate statement of identification of the type of coverage provided by the policy.
- 3) A description of each of the principal benefits and coverages, including the benefit amounts, duration or limits, elimination periods, inner limits and any other items appropriate to the coverage provided.
- 4) A description of the terms and conditions of renewability of the policy, including any limitations by age, time or event, rights to change premium, status requirements and any other matters appropriate to the terms and conditions of renewability (including any rights of cancellation reserved to the insurer).
- 5) A description of the principal exceptions, reductions and limitations contained in the policy, including the preexisting conditions, if any, and the circumstances under which any reduction provisions become operative.
- 6) A statement that the Outline of Coverage is only a brief summary of the policy and is not the contract of insurance. The policy itself sets forth the rights and obligations of the insured and insurer.

(Source: Amended at 38 Ill. Reg. 23400, effective November 25, 2014)

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- 1) Heading of the Part: Managed Care Reform & Patient Rights
- 2) Code Citation: 50 Ill. Adm. Code 5420
- 3) Section Number: 5420.30 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201
- 5) Effective Date of Rule: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 16579; August 8, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 5420.30 - changed the definition of Nursing Home to "Nursing Home means a skilled nursing care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45]."
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: PA 98-651 added nursing homes to the definition of provider in the Managed Care Reform and Patients' Rights Act. Part 5421 has been amended to reflect this.
- 16) Information and questions regarding this adopted rule shall be directed to:

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

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

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk : HEALTH CARE SERVICE PLANSPART 5420
MANAGED CARE REFORM & PATIENT RIGHTS

Section

5420.10	Purpose
5420.20	Applicability and Scope
5420.30	Definitions
5420.40	Provision of Information
5420.50	Notice of Nonrenewal or Termination
5420.60	Transition of Services
5420.70	Health Care Services, Appeals, Complaints and External Independent Reviews
5420.80	Joint Resolution of Complaints – Department of Insurance and Department of Public Health – Notification and Resolution Process
5420.90	Record of Complaints
5420.100	Access and Quality of Care from Providers Without Primary Care Physician Referral or Authorization
5420.110	Emergency Services
5420.120	Post Stabilization Services
5420.130	Registration of Utilization Review Organizations
5420.140	Operational Requirements
5420.EXHIBIT A	Description of Coverage – Cover Page (Repealed)
5420.EXHIBIT B	Description of Coverage – Worksheet (Repealed)
5420.EXHIBIT C	Complaint Reporting Column Descriptions
5420.EXHIBIT D	Application for Registration of a Utilization Review Organization
5420.EXHIBIT E	Utilization Review Organization Officers and Directors Biographical Affidavit
5420.EXHIBIT F	NAIC Utilization Review Organization Officers and Directors Biographical Affidavit

AUTHORITY: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

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SOURCE: Emergency rules adopted at 23 Ill. Reg. 12466, effective September 27, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3374, effective February 10, 2000; amended at 24 Ill. Reg. 9429, effective July 1, 2000; amended at 28 Ill. Reg. 13711, effective September 28, 2004; amended at 30 Ill. Reg. 6368, effective March 29, 2006; amended at 34 Ill. Reg. 6879, effective April 29, 2010; amended at 38 Ill. Reg. 2253, effective January 2, 2014; amended at 38 Ill. Reg. 23431, effective November 25, 2014.

Section 5420.30 Definitions

"Act" means the Managed Care Reform and Patient Rights Act [215 ILCS 134].

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"Health Care Plan" means a plan that establishes, operates, or maintains a network of health care providers that has entered into an agreement with the plan to provide health care services to enrollees to whom the plan has the ultimate obligation to arrange for the provision of or payment for services through organizational arrangements for ongoing quality assurance, utilization review programs, or dispute resolution. Nothing in this definition shall be construed to mean that an independent practice association or a physician hospital organization that subcontracts with a health care plan is, for purposes of that subcontract, a health care plan. For purposes of this definition, "health care plan" shall not include the following:

indemnity health insurance policies including those using a contracted provider network;

health care plans that offer only dental or only vision coverage;

preferred provider administrators, as defined in Section 370g(g) of the Illinois Insurance Code;

employee or employer self-insured health benefit plans under the federal Employee Retirement Income Security Act of 1974;

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health care provided pursuant to the Workers' Compensation Act or the Workers' Occupational Diseases Act; and

not-for-profit voluntary health services plans with health maintenance organization authority in existence as of January 1, 1999 that are affiliated with a union and that only extend coverage to union members and their dependents.

"Health Care Provider" means any physician, hospital facility, [nursing home](#) or other person that is licensed or otherwise authorized to deliver health care services. Nothing in the Act shall be construed to define independent practice associations or physician hospital organizations as health care providers.

"Long-Standing Relationship" means the continuous relationship between an enrollee and his or her primary care physician of not less than 5 years; except in the case of a child 5 years or under who has had a continuous relationship with the same primary care physician since birth, placement for adoption, guardianship or foster care.

"Managed Care Organization" or "MCO" means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

"Nursing Home" means [a skilled nursing care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act \[210 ILCS 45\]](#).

"Ongoing Course of Treatment" means the treatment of a condition or disease that requires repeated health care services pursuant to a plan of treatment by a physician because of the potential for changes in the therapeutic regimen.

"Person" means a corporation, association, partnership, limited liability company, sole proprietorship, or any other legal entity.

"Referral Arrangement" means that, for each referral or standing referral, a referral arrangement exists between a participating primary care physician and a

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participating specialist physician or a participating health care provider when a participating primary care physician makes a referral of an enrollee for that referral or standing referral to a participating specialist physician or participating health care provider.

"Standing Referral" means a written referral from the primary care physician for an ongoing course of treatment pursuant to a treatment plan specifying needed services and time frames developed by a specialist in consultation with the primary care physician and in accordance with procedures developed by the health care plan.

"Utilization Review" means the evaluation of the medical necessity, appropriateness, and efficiency of the use of health care services, procedures, and facilities.

"Utilization Review Organization" means an entity that has established one or more utilization review programs. This definition does not include:

persons providing utilization review program services only to the federal government;

self-insured health plans under the Federal Employee Retirement Income Security Act of 1974 (ERISA); however, this Part does not apply to persons conducting a utilization review program on behalf of these health plans;

hospitals and medical groups performing utilization review activities for internal purposes; however, this Part does apply when the hospital or medical group is conducting utilization review for another person.

"Utilization Review Program" means a program established by a person to perform utilization review.

(Source: Amended at 38 Ill. Reg. 23431, effective November 25, 2014)

DEPARTMENT OF INSURANCE

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- 1) Heading of the Part: Health Maintenance Organization
- 2) Code Citation: 50 Ill. Adm. Code 5421
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
5421.20	Amendment
5421.130	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201
- 5) Effective Date of Rule: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 38 Ill. Reg. 16585; August 8, 2014
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: Section 5421.20 - changed the definition of Nursing Home to "Nursing Home means a skilled nursing care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45].".
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: PA 98-651 added nursing homes to the definition

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of provider in the HMO Act. Part 5421 has been amended to reflect this. Changes have also been made to reflect updated mental health parity standards.

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

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

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

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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANSPART 5421
HEALTH MAINTENANCE ORGANIZATION

Section	
5421.10	Scope
5421.20	Definitions
5421.30	Valuation of Investments
5421.40	Grievance Procedure
5421.50	Contracts, Administrative Arrangements and Material Modifications
5421.60	Rates
5421.70	Subordinated Indebtedness
5421.80	Financial Reporting
5421.90	Conflict of Interest and Required Disclosure
5421.100	Solicitation
5421.110	Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
5421.111	Cancellation
5421.112	Form Filing Requirements
5421.113	Point of Service Plan Requirements
5421.120	Internal Security Standards and Fidelity Bonds
5421.130	Basic Health Care Services
5421.131	Basic Outpatient Preventive and Primary Health Care Services for Children
5421.132	Required Coverage for Reconstructive Surgery Following Mastectomies
5421.140	General Provisions
5421.141	HMO Producer Licensing Requirements
5421.142	Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers
5421.150	Severability
5421.160	Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

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SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective July 25, 1996; recodified at 21 Ill. Reg. 1729; emergency amendment at 21 Ill. Reg. 15262, effective November 18, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6671, effective March 31, 1998; amended at 23 Ill. Reg. 5690, effective May 3, 1999; emergency amendment at 26 Ill. Reg. 5146, effective March 25, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13088, effective August 19, 2002; amended at 28 Ill. Reg. 14412, effective October 19, 2004; amended at 30 Ill. Reg. 4732, effective March 2, 2006; amended at 37 Ill. Reg. 14032, effective August 26, 2013; amended at 38 Ill. Reg. 2272, effective January 2, 2014; amended at 38 Ill. Reg. 23437, effective November 25, 2014.

Section 5421.20 Definitions

["ACA" means the Patient Protection and Affordable Care Act \(42 USC 18001 et seq.\).](#)

"Act" means the Health Maintenance Organization Act [215 ILCS 125].

"Advertisement" means any printed or published material, audiovisual material and descriptive literature of the health care plan used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the health care plan for presentation to the public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations (Section 1-2(1) of the Act).

"Base Rates" means the rate generated before any classification deviations are applied.

"Basic Health Care Services" means emergency care, and inpatient hospital and physician care, outpatient medical services, mental health services and care for alcohol and drug abuse, infertility treatment, prenatal and postnatal care, delivery and inpatient services for maternity care, and preventative services required pursuant to 42 USC 300gg-13, all of which are subject to limitations set forth in this Part (see Section 1-2(3) of the Act).

"Cancellation" means the termination of a group contract, evidence of coverage or individual contract by an HMO prior to the expiration date of the group contract, evidence of coverage or individual contract.

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"Consumer" means any enrollee, provided that the individual is not or has not been, in the previous two years: an employee (including the employee's spouse or dependent) of the HMO or affiliate of the HMO; or a provider furnishing health care services to the HMO or affiliate of the HMO.

"Copayment" means the amount an enrollee must pay in order to receive a specific covered service that is not fully prepaid.

"Deductible" means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs associated with treatment.

"Director" means the Director of the Illinois Department of Insurance.

"Department" means the Illinois Department of Insurance.

"Department of Insurance Complaint" means a written complaint filed by or on behalf of an enrollee, with the Department pursuant to Section 4-6 of the Act, excluding complaints filed by Illinois Department of Healthcare and Family Services HMO members under Section 5-11 of the Public Aid Code [305 ILCS 5/5-11] and complaints subject to handling by the Centers for Medicare and Medicaid Services (CMMS) pursuant to a contract entered into between CMMS and the HMO.

"Enrollee" means an individual who has been enrolled in a health care plan.
(Section 1-2(4) of the Act)

"Evidence of Coverage" means any certificate, agreement, or contract issued to enrollees setting out the coverage to which they are entitled in exchange for a per capita prepaid sum. (Section 1-2(5) of the Act)

"Governing Body" means the board of trustees, or directors, or if otherwise designated in the basic organizational document bylaws, those individuals vested with the ultimate responsibility for the management of any organization that has been issued, or is applying for, a certificate of authority as an HMO.

"Grievance" means any written complaint submitted to the HMO by or on behalf of an enrollee regarding any aspect of the HMO relative to the enrollee, but shall not include any complaint by or on behalf of a provider.

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"Grievance Committee" means individuals who have been appointed by the HMO to respond to grievances that have been filed on appeal from the HMO's simplified complaint process established pursuant to Section 5421.40(d). At least 50% of the individuals on this committee shall be enrollees who are consumers.

"Group Contract" means a contract for health care services which by its terms limits eligibility to members of a specified group (Section 1-2(6) of the Act).

"Health Care Plan" means any arrangement in which any organization undertakes to provide or arrange for, and pay for or reimburse the cost of, any basic health care services from providers selected by the HMO. The arrangement consists of arranging for, or the provision of, the health care services, as distinguished from mere indemnification against the cost of the services, except as otherwise authorized by Section 2-3 of the Act, on a per capita prepaid basis, through insurance or otherwise (see Section 1-2(7) of the Act). A health care plan also includes any arrangement in which an organization undertakes to provide or arrange for, or pay for or reimburse the cost of, any health care services for persons who are enrolled in the integrated health care program established under Section 5-16.3 of the Illinois Public Aid Code through providers selected by the organization and the arrangement consists of making provision for the delivery of health care services, as distinguished from mere indemnification. A health care plan also includes any arrangement pursuant to Section 4-17 of the Act. Nothing in the definition of Health Care Plan, however, affects the total medical services available to persons eligible for medical assistance under the Illinois Public Aid Code.

"Health Care Services" means any services included in the furnishing to any individual of medical or dental care, or the hospitalization or incident to the furnishing of such care or hospitalization as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury (Section 1-2(8) of the Act).

"HMO" means Health Maintenance Organization.

"Individual Contract" means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

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"Limited Insurance Representative" means an individual appointed by an HMO to represent the HMO in the enrollment of recipients of Medicaid or Medicare in the HMO.

"Managed Care Organization" or "MCO" means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), that delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish those health care services.

"Notice of Availability of the Department", as required by this Part, shall be no less informative than the following:

The regulations of the Illinois Department of Insurance (50 Ill. Adm. Code 5421.110(n)) require that we advise you that if you wish to take this matter up with the Illinois Department of Insurance it maintains a Consumer Division in Chicago at 122 S. Michigan Avenue, 19th Floor, Chicago, Illinois 60603 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767-0001.

"Nursing Home" means a skilled nursing care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45].

"Point of Service Plan" means a plan in which an eligible enrollee is covered under both an HMO evidence of coverage and an indemnity insurance policy or certificate and may select, on a point of service basis, between using the HMO or the indemnity benefit program.

"Primary Care Physician" means a provider who has contracted with an HMO to provide primary care services as defined by the contract and who is:

a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice or in the practice of internal medicine, pediatrics, gynecology, obstetrics or family practice;

a chiropractic physician licensed to treat human ailments without the use of drugs or operative surgery.

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"Producer" means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment (see Section 1-2(13) of the Act).

"Provider" means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care services and also includes any other entity that arranges for the delivery or furnishing of health care services (Section 1-2(12) of the Act). For purposes of Section 5421.50, "provider" shall also mean an MCO [or a nursing home](#).

"Renewal" means the issuance and delivery by an HMO of a group contract or individual contract superseding at the end of the contract period a contract previously issued and delivered by the same HMO or the issuance and delivery of a certificate or notice extending the term of the group or individual contract beyond its contract term.

"Solicitation" means any method by which information relative to an HMO is made known to the public for the purpose of informing or influencing potential enrollees to enroll in a Health Care Plan, regardless of the media or technique used.

"State" means any governing body, department or agency of the State of Illinois that has regulatory authority under the Act.

"Subscriber" means a person who has entered into a contractual relationship with the HMO for the provision of or arrangement of at least Basic Health Care Services to the beneficiaries of such contract (Section 1-2(15) of the Act).

"Supplemental Health Care Services" means any health care service other than basic health care services.

"Usual and Customary Fee" means the fee, as reasonably determined by the HMO, that is based on the fee the provider who renders the service usually charges its patients for the same service. The fee shall be within the range of usual fees other providers of similar type, training and experience in a similar geographic area charge their patients for the same service, under similar or comparable circumstances.

(Source: Amended at 38 Ill. Reg. 23437, effective November 25, 2014)

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Section 5421.130 Basic Health Care Services

The provision of Basic Health Care Services shall not discriminate against any class of physician. The following minimum standards shall meet the requirements for Basic Health Care Services, provided that services are medically necessary as determined by the enrollee's primary care physician and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director:

- a) Physician services, including primary care, consultation, referral, surgical, anesthesia or other as needed by the enrollee in any level of service delivery. Physician services need not include organ transplants unless specifically authorized by a primary care physician and approved by the HMO's Medical Director;
- b) Outpatient diagnostic imaging, pathology services and radiation therapy;
- c) ~~Non-mental~~ ~~120 days of non-mental~~ health inpatient services ~~per year~~, including all professional services, medications, surgically implanted devices and supplies used by the enrollee while an inpatient;
- d) Emergency services for accidental injury or emergency illness 24 hours per day, and 7 days per week. Emergency services are covered benefits inside and out of the plan's service area. Emergency treatment shall include outpatient visits and referrals for emergency mental health problems;
- e) Maternity care, including prenatal and post-natal care and care for complication of pregnancy of mother and care with respect to a newborn child from the moment of birth, which shall include the care and treatment of illness, injury, congenital defects, birth abnormalities and premature birth;
- f) Blood transfusion services, processing and the administration of whole blood and blood components and derivatives;
- g) Preventive health services as appropriate for the patient population, including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including but not limited to allergy injections and allergy serum. A health evaluation program shall include at least periodic physical examinations and medical history, hearing and vision testing or

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screening, routine laboratory testing or screening, blood pressure testing, and uterine cervical cytological testing, and low dose mammography testing as required by Section 4-6.1 of the Act;

- h) ~~45Ten~~ days inpatient mental health care per year. Care in a day hospital, residential non-hospital or intensive outpatient mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. ~~60Twenty~~ individual outpatient mental health care visits per enrollee per year, as appropriate for evaluation, short-term treatment and crisis intervention services. Group outpatient mental health care visits may be substituted on a two-to-one basis for individual mental health care visits as deemed appropriate by the primary care physician;
- i) Alcoholism and Drug Abuse
 - 1) Diagnosis, detoxification and treatment of the medical complications of the abuse of or addiction to alcohol or drugs on either an inpatient or outpatient basis. ~~Inpatient hospital services are subject to subsection (c).~~
 - 2) Rehabilitation services on an inpatient basis, for up to ~~45+0~~ days inpatient care per year. Care in a day hospital, residential non-hospital or intensive outpatient treatment mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. ~~60Twenty~~ individual outpatient care visits per enrollee per year as appropriate for evaluation, short-term treatment, and crisis intervention services. Group outpatient care visits may be substituted on a two-to-one basis for individual outpatient visits as deemed appropriate by the primary care physician. Prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of Basic Health Care Services;
- j) Outpatient Rehabilitative therapy (including but not limited to: speech therapy, physical therapy, and occupational therapy directed at improving physical functioning of the member) up to 60 treatments per year for conditions which are expected to result in significant improvement within two months as determined by the primary care physician and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director;
- k) Preventive services required pursuant to 42 USC 300gg-13;

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- l) Essential health benefits as provided in 50 Ill. Adm. Code 2001.11~~;~~
- m) Additional minimum standards may apply under the ACA, including but not limited to plans required to provide Essential Health Benefits under sections 1302(a) and (b) and the Mental Health Parity and Addiction Equity Act (P.L. 110-343).

(Source: Amended at 38 Ill. Reg. 23437, effective November 25, 2014)

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Compliance with the Freedom of Information Act
- 2) Code Citation: 2 Ill. Adm. Code 576
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
576.110	Repeal
576.120	Repeal
576.130	Repeal
576.210	Repeal
576.220	Repeal
576.230	Repeal
576.240	Repeal
576.250	Repeal
576.310	Repeal
576.320	Repeal
576.330	Repeal
576.340	Repeal
576.350	Repeal
576.410	Repeal
576.420	Repeal
- 4) Statutory Authority: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Repealer: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file and is available for public inspection in the Attorney General's Springfield office (500 South Second Street, Springfield Illinois).
- 9) Will this rulemaking replace any emergency rule currently in effect? No
- 10) Are there any rulemakings pending on this Part? No

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NOTICE OF ADOPTED REPEALER

- 11) Summary and Purpose of Repealer: The Attorney General has repealed the original Part 576, while simultaneously adopting a replacement rule under the same Part number that aligns with legislative changes made to the Freedom of Information Act. The Attorney General's replacement Part 576 also appears in this *Illinois Register*.
- 12) Information and questions regarding this adopted repealer shall be directed to:

Lynn Patton
Rules Coordinator
Office of the Attorney General
500 South Second Street
Springfield IL 62706

217/524-1504

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Compliance with the Freedom of Information Act
- 2) Code Citation: 2 Ill. Adm. Code 576
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
576.110	New Section
576.120	New Section
576.210	New Section
576.310	New Section
576.320	New Section
576.330	New Section
576.340	New Section
- 4) Statutory Authority: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]
- 5) Effective Date of Rules: November 25, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file and is available for public inspection in the Attorney General's Springfield office (500 South Second Street, Springfield, Illinois).
- 9) Will this rulemaking replace any emergency rule currently in effect? No
- 10) Are there any rulemakings pending on this Part? No
- 11) Summary and Purpose of Rule: The adopted rule aligns with legislative changes made to the Freedom of Information Act.
- 12) Information and questions regarding this adopted rule shall be directed to:

Lynn Patton
Rules Coordinator
Office of the Attorney General

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500 South Second Street
Springfield IL 62706

217/524-1504

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

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NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER IV: ATTORNEY GENERAL

PART 576

COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

SUBPART A: GENERAL

Section	
576.110	Purpose
576.120	Definitions

SUBPART B: REQUESTS FOR PUBLIC RECORDS

Section	
576.210	Requests for Records

SUBPART C: RESPONSES TO REQUEST FOR PUBLIC RECORDS

Section	
576.310	Response to Requests for Records
576.320	Inspection of Public Records
576.330	Copies of Public Records – Fees
576.340	Materials Immediately Available

AUTHORITY: Implementing and authorized by Section 3(h) of the Freedom of Information Act [5 ILCS 140/3(h)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 9 Ill. Reg. 14991, effective September 23, 1985; old Part repealed at 38 Ill. Reg. 23448, and new Part adopted at 38 Ill. Reg. 23450, effective November 25, 2014.

SUBPART A: GENERAL

Section 576.110 Purpose

These rules are established to implement the Freedom of Information Act [5 ILCS 140] within the Office of the Attorney General. The purpose of these rules is to support the policy of

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providing public access to public records in the custody of the Office of the Attorney General while also protecting legitimate interests in privacy and confidentiality and maintaining the efficient operation of the Office of the Attorney General.

Section 576.120 Definitions

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Freedom of Information Officer" or "FOI Officer" means an individual or individuals responsible for receiving and responding to requests for public records.

"Office" means the Office of the Attorney General.

"Requester" means a person who submits a request for public records in accordance with this Part.

SUBPART B: REQUESTS FOR PUBLIC RECORDS

Section 576.210 Requests for Records

- a) A request for access to public records for inspection and copying shall be submitted in writing to the FOI Officer at the Office of the Attorney General. Requests for public records may be submitted by mail, e-mail, hand delivery or facsimile, directed to the FOI Officer, as follows:

FOI OFFICER
Office of the Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706

217/782-9090 (telephone)
217/782-8827 (facsimile)
foiaofficer@atg.state.il.us (e-mail)

- b) The request must describe the public record or records sought, being as specific as possible. If the description is not sufficiently clear to allow easy identification of the records sought, the requester may be asked to supply additional necessary information.

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- c) Pursuant to Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], requests for copies of Office of the Attorney General rules are not to be considered requests subject to FOIA procedures.
- d) The requester shall indicate whether the public record is being obtained for a commercial purpose.

SUBPART C: RESPONSES TO REQUESTS FOR PUBLIC RECORDS

Section 576.310 Response to Requests for Records

- a) Unless otherwise authorized under FOIA, the FOI Officer shall respond to a written request for public records within 5 business days after receipt of the request.
- b) If, for one or more reasons provided in Section 3(e) of FOIA, the request cannot be responded to within 5 business days, the FOI Officer shall have an additional 5 business days in which to respond. Within the initial 5 business-day period, the FOI Officer shall give the requester written notice of the extension of time to respond. The notice shall set forth the reasons why the extension is necessary.
- c) When a request for public records has been approved, the Office of the Attorney General may:
 - 1) provide copies of the requested materials;
 - 2) give notice that the requested material will be made available upon payment of reproduction costs, if any; or
 - 3) give notice of the time and place for inspection of the requested material.
- d) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of individuals responsible for the decision. The notice of denial shall also inform the requester of the right to review by the Public Access Counselor established in the Office of the Attorney General and the requester's right to judicial review under Section 11 of FOIA. Categorical requests creating an undue burden on the Office of the

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Attorney General shall be denied only after extending to the requester an opportunity to confer with the FOI Officer in an attempt to reduce the request to manageable proportions.

- e) Failure to respond to a written request within 5 business days may be considered by the requester as a denial of the request.
- f) When a request for public records includes some requested material that will be made available and other requested material that will not, the FOI Officer shall approve part of the request by following the procedures set forth in subsection (c) with respect to the requested material that will be made available, and shall deny part of the request by following the procedures set forth in subsection (d) with respect to those documents which are not available for reproduction or inspection.
- g) The FOI Officer shall respond to a request for public records for a commercial purpose within 21 business days after receipt of the request. Such response shall be in the form indicated in subsections (c), (d) or (f), as appropriate. The response shall also provide the requester with an estimate of the time required to provide the records and an estimate of the fees to be charged pursuant to the fee provisions of Section 6(f) of FOIA as necessary.

Section 576.320 Inspection of Public Records

- a) All public records in the custody of the Springfield, Chicago or Carbondale office or any regional office of the Attorney General, which are subject to inspection pursuant to FOIA, will be made available for inspection during normal office hours at the office where those records are maintained or at another office agreed to by both the Office of the Attorney General and the requester by appointment only, scheduled subject to space and time availability. No original record shall be removed from the Office of the Attorney General. In order to maintain routine Office operations, the requester will have access only to the designated inspection area. Inspection of public records shall be made under the supervision of the FOI Officer or his or her designee.
- b) Documents which the requester wishes to have copied shall be segregated during the course of the inspection. Generally, all copying shall be done by employees of the Office of the Attorney General.

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- c) An Office of the Attorney General employee shall be present throughout the inspection.

Section 576.330 Copies of Public Records – Fees

- a) Copies of public records not exempt from disclosure under FOIA will be provided unless the requester makes arrangements to personally inspect the public records as provided in Section 576.320. The first 50 pages of black and white letter or legal sized copies are provided free of charge. The Office of the Attorney General reserves the right to charge fees to reimburse its actual costs for reproducing public records exceeding 50 pages and copies in color or in a size other than letter or legal, as allowed by FOIA.
- b) If the Office of the Attorney General incurs extraordinary shipping expenses for sending copies of public records to the requester, the Office of the Attorney General reserves the right to seek reimbursement of those actual shipping expenses from the requester.
- c) Fees may be waived or reduced in any case in which the FOI Officer determines that the waiver serves the public interest. Payment of fees shall be waived if the requester is a State agency, a constitutional officer or a member of the General Assembly.
- d) When requested, the FOI Officer shall provide copies of public records appropriately certified as to their authenticity and accuracy. Fees for certification of public records shall be assessed in accordance with FOIA. Payment of fees shall be waived if the requester is a State agency, a constitutional officer or a member of the General Assembly. Fees may be waived whenever the FOI Officer determines that waiver of fees serves the public interest.

Section 576.340 Materials Immediately Available

Detailed information about the Office of the Attorney General is publicly and immediately available at the Office's website: www.illinoisattorneygeneral.gov. The Office's website provides a description of the Office of the Attorney General's responsibilities, organizational structure, categories of public records and process for obtaining public records. Public records immediately available on the website include official opinions of the Attorney General, binding opinions of the Public Access Counselor established in the Office of the Attorney General, press

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED RULES

releases issued by the Office of the Attorney General and brochures and other publications of the Office of the Attorney General.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Solid Waste Disposal: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 810
- 3) Section Number: 810.104 Adopted Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) Effective Date of Rule: November 24, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted November 20, 2014 in docket R15-8, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: September 12, 2014; 38 Ill. Reg. 18608
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between Proposal and Final Version: A table that appears in the Board's opinion and order of November 20, 2014 in docket R15-8 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated August 21, 2014, in docket R15-8. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections suggested by JCAR. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the September 12, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of November 20, 2014 in docket R15-8, as indicated in item 11 above. See the November 20, 2014 opinion and order in docket R15-8 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The following briefly describes the subjects and issues involved in the docket R15-8 rulemaking of which the amendments to Part 810 are a single segment. Also affected is 35 Ill. Adm. Code 814, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of November 20, 2014, adopting amendments in docket R15-8, which opinion and order is available from the address below.

This proceeding updates the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the *Federal Register* during a single update period. The docket and time period that is involved in this proceeding is the following:

R15-8 Federal RCRA Subtitle D MSWLF amendments that occurred during the period January 1, 2014 through June 30, 2014.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

The R15-8 docket amends rules in Parts 810 and 814. The amendments to the two Parts are inter-related. USEPA did not update the federal RCRA Subtitle D MSWLF rules in any way during the update period. Rather, the Board determined that updating the versions of various provisions of the *Code of Federal Regulations* was needed to ensure that the Illinois regulations remain as stringent as and not inconsistent with the federal requirements. The Board further determined that adding several formerly omitted incorporations by reference to various provisions of the *Code of Federal Regulations* was needed for the same reasons.

Specifically, the amendments to Part 810 update existing and add formerly missing incorporations by reference to provisions of the *Code of Federal Regulations*. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of November 20, 2014 in docket R15-8 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's August 21, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the November 20, 2014 opinion and order in docket R15-8.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that

Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

312/814-6924

michael.mccambridge@illinois.gov

Please reference consolidated docket R15-8.

Request copies of the Board's opinion and order of November 20, 2014 at 312/814-3620.

Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 810
SOLID WASTE DISPOSAL: GENERAL PROVISIONS

Section	
810.101	Scope and Applicability
810.102	Severability
810.103	Definitions
810.104	Incorporations by Reference
810.105	Electronic Reporting

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15838, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1268, effective January 13, 1994; amended in R90-26 at 18 Ill. Reg. 12457, effective August 1, 1994; amended in R95-9 at 19 Ill. Reg. 14427, effective September 29, 1995; amended in R96-1 at 20 Ill. Reg. 11985, effective August 15, 1996; amended in R97-20 at 21 Ill. Reg. 15825, effective November 25, 1997; amended in R04-5/R04-15 at 28 Ill. Reg. 9090, effective June 18, 2004; amended in R05-1 at 29 Ill. Reg. 5028, effective March 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 4130, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1425, effective December 20, 2006; amended in R07-8 at 31 Ill. Reg. 16167, effective November 27, 2007; amended in R10-9 at 35 Ill. Reg. 10837, effective June 22, 2011; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7253, effective March 13, 2014; amended in R15-8 at 38 Ill. Reg. 23458, effective November 24, 2014.

Section 810.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:
 - 1) Code of Federal Regulations:

40 CFR 3.2 (~~2014~~)(2013) (How Does This Part Provide for Electronic Reporting?), referenced in Section 810.105.

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40 CFR 3.3 [\(2014\)\(2013\)](#) (What Definitions Are Applicable to This Part?), referenced in Section 810.105.

40 CFR 3.10 [\(2014\)\(2013\)](#) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 810.105.

40 CFR 3.2000 [\(2014\)\(2013\)](#) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 810.105.

40 CFR 141.40 [\(2014\)\(2013\)](#) (Monitoring Requirements for Unregulated Contaminants), referenced in 35 Ill. Adm. Code 811.319 and 817.415.

[40 CFR 258.10\(a\), \(b\), and \(c\) \(2014\) \(Airport Safety\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.11\(a\) \(2014\) \(Floodplains\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.12\(a\) \(2014\) \(Wetlands\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.13 \(2014\) \(Fault Areas\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.14 \(2014\) \(Seismic Impact Zones\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.15 \(2014\) \(Unstable Areas\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

[40 CFR 258.16\(a\) \(2014\) \(Closure of Existing Municipal Solid Waste Landfill Units\), referenced in 35 Ill. Adm. Code 814.Appendix A.](#)

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[40 CFR 258.20 \(2014\) \(Procedures for Excluding the Receipt of Hazardous Waste\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.23 \(2014\) \(Explosive Gases Control\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.26 \(2014\) \(Run-on/Run-off Control Systems\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.27 \(2014\) \(Surface Water Requirements\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.28 \(2014\) \(Liquids Restrictions\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.29\(a\) and \(c\) \(2014\) \(Recordkeeping Requirements\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.60\(c\)\(2\), \(c\)\(3\), \(d\), \(f\), \(g\), and \(i\) \(2014\) \(Closure Criteria\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.61\(a\), \(c\)\(3\), and \(d\) \(2014\) \(Post-Closure Care Requirements\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.70\(a\) \(2014\) \(\(Financial Assurance\) Applicability and Effective Date\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.71\(a\)\(2\) \(2014\) \(Financial Assurance for Closure\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.72\(a\)\(1\) and \(a\)\(2\) \(2014\) \(Financial Assurance for Post-Closure Care\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

[40 CFR 258.73 \(2014\) \(Financial Assurance for Corrective Action\)](#), referenced in 35 Ill. Adm. Code 814.Appendix A.

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[40 CFR 258.74 \(2014\) \(Allowable Mechanisms \(for Financial Assurance\)\)](#), referenced in 35 Ill. Adm. Code 814. Appendix A.

Appendix I to 40 CFR 258 [\(2014\)](#)~~(2013)~~, referenced in 35 Ill. Adm. Code 811.319.

Appendix II to 40 CFR 258 [\(2014\)](#)~~(2013)~~, referenced in 35 Ill. Adm. Code 811.319.

- 2) American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York NY 10036:

Financial Accounting Standard Board (FASB) Accounting Standards – Current Text, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

American Institute of Certified Public Accountants (AICPA) Professional Standards – Statements on Auditing Standards, June 1, 2008 Edition, referenced in 35 Ill. Adm. Code 811.715.

- 3) ASTM. American Society for Testing and Materials, 1916 Race Street, Philadelphia PA 19103 215-299-5585:

Method D2234-76, "Test Method for Collection of Gross Samples of Coal," approved 1976, referenced in 35 Ill. Adm. Code 817.103.

Method D3987-85, "Standard Test Method for Shake Extraction of Solid Waste with Water," approved 1985, referenced in 35 Ill. Adm. Code 814.601, 814.701, 814.901, 814.902, and 817.103.

- 4) GASB. Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116:

Statement 18, Accounting for Municipal Solid Waste Landfill Closure and Post-Closure Care Costs, August 1993, referenced in 35 Ill. Adm. Code 811.716.

- 5) U.S. Army Corps of Engineers, Publication Department, 2803 52nd Ave., Hyattsville MD 20781, 301-394-0081:

POLLUTION CONTROL BOARD

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Engineering Manual 1110-2-1906 Appendix VII, Falling-Head Permeability Cylinder (1986), referenced in 35 Ill. Adm. Code 816.530.

- 6) U.S. Government Printing Office, Washington DC 20402, Ph: 202-783-3238:

Method 9095B (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (Third Edition, Update IIIB, November 2004) (document number EPA-SW-846-03-03B or EPA-530-R-04-037), referenced in 35 Ill. Adm. Code 811.107.

- b) This incorporation includes no later amendments or editions.

(Source: Amended at 38 Ill. Reg. 23458, effective November 24, 2014)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Standards for Existing Landfills and Units
- 2) Code Citation: 35 Ill. Adm. Code 814
- 3) Section Number: 814.APPENDIX A Adopted Action: Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.40, and 27
- 5) Effective Date of Rule: November 24, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted November 20, 2014 in docket R15-8, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: September 12, 2014; 38 Ill. Reg. 18608
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).
- 11) Differences between Proposal and Final Version: A table that appears in the Board's opinion and order of November 20, 2014 in docket R15-8 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated August 21, 2014, in docket R15-8. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The differences are limited to minor corrections suggested by JCAR. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without

POLLUTION CONTROL BOARD

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deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 21, 2014 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of November 20, 2014 in docket R15-8, as indicated in item 11 above. See the November 20, 2014 opinion and order in docket R15-8 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 814 are a single segment of the docket R15-8 rulemaking that also affects 35 Ill. Adm. Code 810, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R15-8 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 810. A comprehensive description is contained in the Board's opinion and order of November 20, 2014, adopting amendments in docket R15-8, which opinion and order is available from the address below.

Specifically, the amendments to Part 814 add cross-references to the incorporations by reference that the Board inadvertently omitted when adopting Appendix A to Part 814. The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments.

POLLUTION CONTROL BOARD

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Tables appear in the Board's opinion and order of November 20, 2014 in docket R15-8 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's August 21, 2014 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the November 20, 2014 opinion and order in docket R15-8.

Section 22.40 of the Environmental Protection Act [415 ILCS 5/22.40] provides that

Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6924
michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order of November 20, 2014 at 312/814-3620. Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>. Please reference consolidated docket R-15-8.

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULINGPART 814
STANDARDS FOR EXISTING LANDFILLS AND UNITS

SUBPART A: GENERAL REQUIREMENTS

Section	
814.101	Scope and Applicability
814.102	Compliance Date
814.103	Notification to Agency
814.104	Applications for Significant Modification of Permits
814.105	Effect of Timely Filing of Notification and Application for Significant Modification
814.106	Agency Action on Applications for Significant Modifications to Existing Permits
814.107	Compliance Dates for Existing MSWLF Units
814.108	Interim Permit Requirements for Existing MSWLF Units
814.109	Permit Requirements for Lateral Expansions at Existing MSWLF Units
814.110	Electronic Reporting

SUBPART B: STANDARDS FOR UNITS ACCEPTING INERT WASTE

Section	
814.201	Scope and Applicability
814.202	Applicable Standards

SUBPART C: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL OR PUTRESCIBLE WASTES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

Section	
814.301	Scope and Applicability
814.302	Applicable Standards

SUBPART D: STANDARDS FOR EXISTING UNITS ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

POLLUTION CONTROL BOARD

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- Section
- 814.401 Scope and Applicability
- 814.402 Applicable Standards

SUBPART E: STANDARDS FOR EXISTING UNITS ACCEPTING INERT WASTE ONLY, OR ACCEPTING CHEMICAL AND PUTRESCIBLE WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

- Section
- 814.501 Scope and Applicability
- 814.502 Standards for Operation and Closure

SUBPART F: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL AND FOUNDRY INDUSTRIES THAT MAY REMAIN OPEN FOR MORE THAN SEVEN YEARS

- Section
- 814.601 Scope and Applicability
- 814.602 Applicable Standards

SUBPART G: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY LOW RISK WASTES FROM THE STEEL OR FOUNDRY INDUSTRIES THAT MUST INITIATE CLOSURE WITHIN SEVEN YEARS

- Section
- 814.701 Scope and Applicability
- 814.702 Applicable Standards

SUBPART H: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE, OR ACCEPTING ONLY LOW RISK STEEL OR FOUNDRY INDUSTRY WASTES THAT MUST INITIATE CLOSURE WITHIN TWO YEARS

- Section
- 814.801 Scope and Applicability
- 814.802 Standards for Operation and Closure

SUBPART I: STANDARDS FOR EXISTING UNITS ACCEPTING ONLY POTENTIALLY USABLE STEEL OR FOUNDRY INDUSTRY WASTE

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THAT PLAN TO STAY OPEN FOR MORE THAN TWO YEARS

Section

814.901 Scope and Applicability
814.902 Standards for Operation and Closure

814.APPENDIX A Additional Requirements for Existing MSWLF Units and Lateral Expansions Operating Under Permits Issued Pursuant to 35 Ill. Adm. Code 807.

AUTHORITY: Implementing Sections 7.2, 21, 21.1, 22, 22.17, and 22.40 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 21, 21.1, 22, 22.17, 22.40, and 27].

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15850, effective September 18, 1990; amended in R93-10 at 18 Ill. Reg. 1284, effective January 13, 1994; emergency amendment in R94-13 at 18 Ill. Reg. 8488, effective May 12, 1994, for a maximum of 150 days; amended in R90-26 at 18 Ill. Reg. 12471, effective August 1, 1994; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1472, effective December 20, 2006; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7294, effective March 13, 2014; amended in R15-8 at 38 Ill. Reg. 23467, effective November 24, 2014.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Section 814.APPENDIX A Additional Requirements for Existing MSWLF Units and Lateral Expansions Operating Under Permits Issued Pursuant to 35 Ill. Adm. Code 807

- a) An existing MSWLF unit operating under a permit issued pursuant to 35 Ill. Adm. Code 807 ~~must~~shall comply with the following requirements of the federal Subtitle D standards under 40 CFR 258, each incorporated by reference in 35 Ill. Adm. Code 810.104(a)(1), (1992) until the unit's permit is modified in accordance with Section 814.104:
- 1) Location restrictions:
 - A) 40 CFR 258.10(a) and (c);
 - B) 40 CFR 258.11(a);
 - C) 40 CFR 258.15; and
 - D) 40 CFR 258.16(a);;
 - 2) Operating standards:
 - A) 40 CFR 258.20;
 - B) 40 CFR 258.23;
 - C) 40 CFR 258.26;
 - D) 40 CFR 258.27;
 - E) 40 CFR 258.28; and
 - F) 40 CFR 258.29(a) and (c);;
 - 3) Closure and postclosure care:
 - A) 40 CFR 258.60(c)(2) and (c)(3), (d), (f), (g), and (i); and
 - B) 40 CFR 258.61(a), (c)(3), and (d);

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- 4) Financial assurance requirements:
 - A) 40 CFR 258.70(a);
 - B) 40 CFR 258.71(a)(2);
 - C) 40 CFR 258.72(a)(1) and (a)(2);
 - D) 40 CFR 258.73; and
 - E) 40 CFR 258.74.
- b) In addition to the requirements of subsection (a) of this Appendix A, all existing MSWLF units, including municipally owned and operated on-site facilities, shall comply with the financial assurance requirements specified at 35 Ill. Adm. Code 807.Subpart F.
- c) A lateral expansion at an existing MSWLF unit operating under a permit issued pursuant to 35 Ill. Adm. Code 807 ~~must~~shall comply with the following requirements of the federal Subtitle D standards under 40 CFR 258, each incorporated by reference in 35 Ill. Adm. Code 810.104(a)(1), (1992) until the unit's permit is modified in accordance with Section 814.104:
 - 1) Location restrictions:
 - A) 40 CFR 258.10(a), (b),₂ and (c);
 - B) 40 CFR 258.11(a);
 - C) 40 CFR 258.12(a);
 - D) 40 CFR 258.13;
 - E) 40 CFR 258.14;
 - F) 40 CFR 258.15; and
 - G) 40 CFR 258.16(a);₂

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- 2) Operating standards:
 - A) 40 CFR 258.20;
 - B) 40 CFR 258.23;
 - C) 40 CFR 258.26;
 - D) 40 CFR 258.27;
 - E) 40 CFR 258.28; and
 - F) 40 CFR 258.29(a) and (c);~~;~~
 - 3) Closure and postclosure care:
 - A) 40 CFR 258.60(c)(2) and (c)(3), (d), (f), (g), and (i); and
 - B) 40 CFR 258.61(a), (c)(3), and (d);~~;~~
 - 4) Financial assurance requirements:
 - A) 40 CFR 258.70(a);
 - B) 40 CFR 258.71(a)(2);
 - C) 40 CFR 258.72(a)(1) and (a)(2);
 - D) 40 CFR 258.73; and
 - E) 40 CFR 258.74.
- de) In addition to the requirements of subsection (b) of this Appendix A~~appendix~~, a lateral expansion at an existing MSWLF unit operating under a permit issued pursuant to 35 Ill. Adm. Code 807 must~~shall~~ comply with the following requirements:
- 1) Flexible membrane liner requirements prescribed at 35 Ill. Adm. Code 811.306(d)(5)(A); and

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NOTICE OF ADOPTED AMENDMENT

- 2) All existing MSWLF units including municipally owned and operated and on-site facilities shall with the financial assurance requirements specified at 35 Ill. Adm. Code 807.Subpart F.

(Source: Amended at 38 Ill. Reg. 23467, effective November 24, 2014)

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- a) Parts (Heading and Code Citation): General Rules (35 Ill. Adm. Code 101)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Board anticipates within the next six months proposing limited amendments to the procedural rules to accomplish two primary objectives. First, the amendments would modify the procedural rule concerning motions by out-of-state attorneys for leave to appear pro hac vice in Board adjudicatory proceedings, to conform with recent amendments to Supreme Court Rule 707. As amended, that rule applies a uniform process out-of-state attorneys must follow to participate in court or administrative proceedings in Illinois. Second, the Board anticipates proposing clarifying changes to its rules on service of documents filed with the Board. These proposed amendments would seek to make those rules more readily understandable to a pro se citizen.
- B) Statutory Authority: Implementing and authorized by Sections 5, 26, and 28 of the Environmental Protection Act [415 ILCS 5/5, et. al.]
- C) Scheduled meeting/hearing dates: Hearings have not yet been scheduled.
- D) Date agency anticipates First Notice: The date of publication in the *Illinois Register* could not be determined at the time this regulatory agenda was filed. Please check with the Board for further information.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule could affect any person or entity that appears before the Pollution Control Board.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

POLLUTION CONTROL BOARD

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Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov
312/814-6887

- G) Related Rulemaking and other pertinent information: This anticipated rulemaking is related to the pending procedural rulemaking in docket number R14-21, Procedural Rule Amendments to Implement Electronic Filing and Allow for Public Remarks at Board Meetings: Proposed Amendments to 35 Ill. Adm. Code 101-130. The Board adopted a first-notice opinion and order in that docket on June 5, 2014.
- b) Parts (Heading and Code Citation): General Rules (35 Ill. Adm. Code 101)
Regulatory and Informational Hearings and Proceedings (35 Ill. Adm. Code 102)
Enforcement (35 Ill. Adm. Code 103)
Regulatory Relief Mechanisms (35 Ill. Adm. Code 104)
Appeals of Final Decisions of State Agencies (35 Ill. Adm. Code 105)
Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106)
Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107)
Administrative Citations (35 Ill. Adm. Code 108)
Tax Certifications (35 Ill. Adm. Code 125)
Identification and Protection of Trade Secrets and Other Non-Disclosable Information (35 Ill. Adm. Code 130)
- 1) Rulemaking: Docket number R14-21
- A) Description: On June 5, 2014, the Board proposed procedural rule amendments with two main objectives. First, the amendments codify procedural standards for remarks by members of the public at the Board's open meetings. Second, these rules will permit, with some exceptions, electronic filing in all Board proceedings, as well as service by e-mail of most types of filings. On November 6, 2014, the Board proposed the amendments for second-notice review by JCAR.
- B) Statutory Authority: Implementing and authorized by Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of

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the Environmental Protection Act [415 ILCS 5/5, et. al.], and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27], and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101]

- C) Scheduled meeting/hearing dates: The Board received no requests for a hearing, and no hearing was held.
- D) Date agency anticipates First Notice: The Board anticipates an *Illinois Register* publication date of June 20, 2014.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule could affect any person or entity that appears before the Pollution Control Board.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov
312/814-6887

- G) Related Rulemaking and other pertinent information: This rulemaking is related to the procedural rulemaking in the previous subsection.
- c) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)
 - 1) Rulemaking: Docket number R15-15

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- A) Description: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] mandates that the Board update the Illinois definition of volatile organic material (VOM) to reflect the additions made by the United States Environmental Protection Agency (USEPA) to the list of compounds exempt from regulation as ozone precursors. Those compounds are determined by USEPA to be exempt from regulation under the state implementation plan (SIP) for ozone in the federal "Recommended Policy on the Control of Volatile Organic Compounds" (Recommended Policy) due to their negligible photochemical reactivity. On February 3, 1992 (57 Fed. Reg. 3945), USEPA codified its definition of VOM at 40 CFR 51.100(s), which now embodies the former Recommended Policy. This codified definition now includes all the compounds and classes of compounds previously exempted in the former Recommended Policy. The Illinois definition of VOM is presently codified at 35 Ill. Adm. Code 211.7150.

The Board has reserved this docket number to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period July 1, 2014 through December 31, 2014. At this time, the Board is unaware of any federal action during this update period that affected the federal definition of VOM.

The Board will verify the existence of any other federal actions that may affect the federal definition of VOM, and propose corresponding amendments to the Illinois definition of VOM as necessary and appropriate. Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27]
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 110(a) of the federal Clean Air Act (42 USC § 7410(a)) for amendment of the Illinois ozone SIP.

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- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R15-15, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924
michael.mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 211 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time. Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed

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Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

d) Part (Heading and Code Citation): Regulation Of Coke Or Coal Bulk Terminals (35 Ill. Adm. Code 213)(New Part)

1) Rulemaking: Docket number R14-20

- A) Description: On January 16, 2014, the Illinois Environmental Protection Agency (IEPA) filed a motion and proposal for emergency rulemaking pursuant to Section 27(c) of the Environmental Protection Act (Act) (415 ILCS 5/27(c) (2012)), Section 5-45 of the Illinois Administrative Procedure Act (IAPA) (5 ILCS 100/5-45 (2012)), and Section 102.612 of the Board's rules (35 Ill. Adm. Code 102.612). IEPA proposed an emergency rule applicable statewide to govern the handling of coal and coke, including petroleum coke (or "petcoke"), at bulk terminals and other specified facilities. The proposed emergency rules required immediate measures that included road paving, use of dust suppression systems, setback requirements, containment of stormwater, and disposal of coke and coal that have been on site for more than one year.

On January 23, 2014, the Board denied the IEPA's motion and declined to adopt an emergency rule; however, the Board agreed to proceed with the proposal as a general rulemaking. The Board directed the hearing officer to enter an order asking IEPA to amend its proposal to include the information required in 35 Ill. Adm. Code 102. Emergency Rulemaking Regarding Regulations of Coke/Bulk Terminals: New 35 Ill. Adm. Code 213, R14-20, slip op. at 1 (Jan. 23, 2014).

On March 20, 2014, the Board granted a request to stay the proceedings until June 23, 2014.

- B) Statutory authority: Implementing and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/27]
- C) Scheduled meeting /hearing date: The Board is awaiting a proposal for regular rulemaking and will schedule hearings when that proposal arrives.

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- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that stores, transports or manages petcoke.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Marie Tipsord
Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

312/814-4925
Marie.Tipsord@illinois.gov

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Dana Vetterhoffer
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Il 62794-9276

217/782-5544

- e) Part (Heading and Code Citation): Air Quality Standards (35 Ill. Adm. Code 243)

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1) Rulemaking: Docket number R15-14

- A) Description: P.A. 97-945 added Section 10(H) to the Environmental Protection Act [415 ILCS 5/10(H)] effective August 10, 2012. This provision mandates that the Board adopt ambient air quality standards that are identical-in-substance to the National Ambient Air Quality Standards (NAAQS) adopted by USEPA pursuant to section 109 of the federal Clean Air Act (42 USC 7409). USEPA has codified the primary and secondary NAAQS at 40 CFR 50, including provisions relative to methods for monitoring ambient air quality for the several contaminants (particulate matter, nitrogen oxides, sulfur oxides, ozone, carbon monoxide, and lead). Various other federal regulations relate to aspects of the NAAQS, such as 40 CFR 53 prescribing the procedure for approval of equivalent and reference methods and 40 CFR 81 designating air quality monitoring regions and setting forth their attainment/non-attainment status.

The Board has reserved this docket to accommodate any federal amendments to the NAAQS that USEPA may make during the period July 1, 2014 through December 31, 2014. At this time, the Board is aware of one action to the federal NAAQS that occurred during this update period: November 4, 2014 (79 Fed. Reg. 65392)

Description of the USEPA action: USEPA designated two new federal reference methods (FRMs) and two new federal equivalent methods (FEMs) for monitoring compliance with the NAAQS. USEPA designated one new FRM for fine particulates (PM_{2.5}), one new FRM for coarse particulates (PM_{10-2.5}), one new FEM for ozone (O₃), and one new FEM for carbon monoxide (CO) in ambient air.

Prospective necessary Board action in response: The Board has added this action to the NAAQS update docket. After completion of the amendments, no further action will be required to incorporate the new FRMs and FEMs into 35 Ill. Adm. Code 243.

The Board will verify the existence of any other federal actions that may affect the federal NAAQS, and will amend the Illinois ambient air quality standards as necessary and appropriate. Section 10(H) mandates that the

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Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 10(H), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 10(H) & 27]
- C) Scheduled meeting/hearing dates: None scheduled at this time.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of an air contaminant or precursor to an air contaminant that is the subject of an NAAQS.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R15-14, as follows:

John T. Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting docket number R15-14, as follows:

Michael J. McCambridge, Attorney
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- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 243 is planned at this

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time. Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- f) Parts (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302)
- 1) Rulemaking: Docket number R14-24
- A) Description: The Sanitary District of Decatur seeks a site specific rulemaking for its main sewerage treatment plant. The District seeks an alternative chronic water quality standard for nickel from the point of its discharge into the Sangamon River, and an alternative rule under certain flow conditions to allow mixing to be considered when determining a water quality based NPDES permit limit for nickel.
- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/5, et. al.]
- C) Scheduled meeting/hearing dates: Hearings have not yet been scheduled.
- D) Date agency anticipates First Notice: A Notice of Proposed Rulemaking is expected to be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule will affect the Sanitary District of Decatur.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500

POLLUTION CONTROL BOARD

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Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Daniel Robertson
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Daniel.Robertson@illinois.gov
312/814-6931

G) Related Rulemaking and other pertinent information: None

g) Part (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302) Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303) Permits (35 Ill. Adm. Code 309)

1) Rulemaking: Docket number R08-9 Subdocket D

A) Description: On November 1, 2007, the Board accepted a proposal for hearing in Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). The proposal filed by the Illinois Environmental Protection Agency (Agency) on October 26, 2007, seeks to amend the Board's water quality standards for the "Chicago Area Water Way System" (CAWS) and the Lower Des Plaines River. On November 15, 2007, after the response time to the motion had run out, the Board granted the Agency's request to hold the hearings in this rulemaking in Chicago and Joliet.

In this rulemaking, the Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. These specific designations were for those waters not suited for General Use activities. All waters in Illinois that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the CAWS and the Lower Des Plaines River. In 2000 and 2002, the Agency began pilot programs

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for the Lower Des Plaines River and CAWS to develop use attainability analysis (UAA) for these waters. These proposed rule changes incorporate the findings of the pilot programs.

On March 18, 2010, the Board split this rulemaking into four subdockets. Subdocket D will address the issues dealing with water quality standards and criteria which are necessary to meet the aquatic life use designations.

- B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27]
- C) Scheduled meeting /hearing date: The Board has scheduled and held multiple days of hearings in this rulemaking as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. Hearings have been held during calendar years 2008, 2009, 2010, and 2011 in Chicago, Joliet, and Des Plaines. The Board has held 54 days of hearing. Additional hearings were held during the Fall of 2013.
- D) Date agency anticipates First Notice: The proposed rule was published in the Illinois Register on October 3, 2014.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the Chicago river or the lower Des Plaines River.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Marie Tipsord
Pollution Control Board
100 W. Randolph, Suite 11-500
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POLLUTION CONTROL BOARD

JANUARY 2015 REGULATORY AGENDA

312/814-4925
Marie.Tipsord@illinois.gov

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Stefanie Diers
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276

217/782-5544
Stefanie.diers@illinois.gov

- h) Parts (Headings and Code Citations): Sewer Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)

- 1) Rulemaking: Docket number R15-13

- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved this docket to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period July 1, 2014 through December 31, 2014. At this time, the Board is aware of one amendment to the federal wastewater pretreatment regulations:

August 19, 2014 (79 Fed. Reg. 49001)

Description of the USEPA action: USEPA amended the National Pollutant Discharge Elimination System (NPDES) rules to require

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use of "sufficiently sensitive" analytical methods for application for an NPDES permit or for demonstrating compliance.

Prospective necessary Board action in response: The Illinois wastewater pretreatment regulations incorporate by reference to the affected federal provision. This rule is sufficiently important that the Board should update the incorporation by reference.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27]
- C) Scheduled meeting/hearing dates: The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project a date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

POLLUTION CONTROL BOARD

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Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other presently known proceeding would affect provisions of 35 Ill. Adm. Code 307 and 310. Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.
- i) Parts (Heading and Code Citation): General Provisions (35 Ill. Adm. Code 501)
- 1) Rulemaking: Docket number R12-23(A)
- A) Description: On August 7, 2014, the Board adopted rules pertaining to concentrated animal feeding operations (CAFOs). On that same date, the Board opened this subdocket for further consideration of a proposed requirement that certain CAFOs submit specified information to the Illinois Environmental Protection Agency.
- B) Statutory Authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27]
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled.
- D) Date agency anticipates First Notice: A Notice of Proposed Rulemaking may be published in the *Illinois Register* within the next six months.

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule could affect any agri-business that meets the definition of a Concentrated Animal Feeding Operation and discharges to waters of the State.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Tim.fox@illinois.gov
312/814-6085

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

tim.fox@illinois.gov
312/814-6085

- j) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)
- 1) Rulemaking: Docket number R15-16

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- A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois drinking water regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

The Board has reserved this docket to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period July 1, 2014 through December 31, 2014. At this time, the Board is not aware of any federal amendments that occurred during this update period.

Within the next month, the Board will verify the existence of any other federal actions that may affect the text of the federal primary drinking water standards and determine the Board action required in response.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27]
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at

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least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois 60601

312/814-6924
Michael.McCambridge@illinois.gov

- G) Related rulemakings and other pertinent information: No other rulemaking that would affect 35 Ill. Adm. Code 611 is planned at this time. Receipt of a rulemaking proposal pursuant to 415 ILCS 5/27 and 28, however, could cause the Board to initiate a rulemaking at any time.

Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

- k) Parts (Headings and Code Citations): RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)

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Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

1) Rulemaking: Docket number R15-17

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved this docket to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period July 1, 2014 through December 31, 2014. At this time, the Board is not aware of any federal amendments to the federal UIC rules that occurred during this update period.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal actions that may affect the text of these rules. The Board will then either propose corresponding amendments to the Illinois rules using the identical-in-substance procedure, or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the Illinois Register approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.

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- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting this docket number, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: The reserved RCRA Subtitle C update docket for this reporting period and other, as yet unknown, unrelated Board proceedings may affect the text of 35 Ill. Adm. Code 702, 705, and 720. No other presently known proceeding would affect 35 Ill. Adm. Code 704, 730, 738.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear

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in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

- 1) Parts (Headings and Code Citations): RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)
 - RCRA Permit Program (35 Ill. Adm. Code 703)
 - Procedures For Permit Issuance (35 Ill. Adm. Code 705)
 - Hazardous Waste Management System: General (35 Ill. Adm. Code 720)
 - Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)
 - Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)
 - Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)
 - Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
 - Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
 - Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)
 - Land Disposal Restrictions (35 Ill. Adm. Code 728)
 - Standards for Universal Waste Management (35 Ill. Adm. Code 733)
 - Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)
 - Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

- 1) Rulemaking: Docket number R15-11
 - A) Description: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved this docket number to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2014 through December 31, 2014. At this time, the Board is not aware of any federal actions during this update period.

The Board will verify the existence of any other federal actions that affect the RCRA Subtitle C regulations, and will then propose corresponding

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amendments as necessary and appropriate. Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R15-11, as follows:

John T. Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924
michael.mccambridge@illinois.gov

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- G) Related rulemakings and other pertinent information: The reserved UIC update docket for the period January 1, 2014 through June 30, 2014 (R15-17). Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.
- m) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)
- 1) Rulemaking: Docket number R15-12
- A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.
- The Board has reserved this docket to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period July 1, 2014 through December 31, 2014. At this time, the Board is not aware of any amendments to the federal UST regulations that occurred during this update period.
- Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal amendments that may require Board action. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss this docket if no action is needed.

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- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27]
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the Illinois Register approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting this docket number, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924
Michael.Mccambridge@illinois.gov

POLLUTION CONTROL BOARD

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- G) Related rulemakings and other pertinent information: No other presently known proceeding would impact the text of Part 731.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

- n) Parts (Headings and Code Citations): Solid Waste (35 Ill. Adm. Code 807)
Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)
Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)
Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

- 1) Rulemaking: Docket number R15-18

- A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved this docket to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period July 1, 2014 through December 31, 2014. At this time, the Board is not aware of any federal amendments to the federal MSWLF rules that occurred during this update period.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will

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verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure, or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27]
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting this docket number, as follows:

John T. Therriault, Assistant Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda, noting this docket number, as follows:

POLLUTION CONTROL BOARD

JANUARY 2015 REGULATORY AGENDA

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

312/814-6924

Michael.Mccambridge@illinois.gov

- G) Related rulemakings and other pertinent information: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.
- o) Parts (Heading and Code Citation): Site – Specific Closures of Coal Combustion Waste Surface Impoundments (35 Ill. Adm. Code 840)
- 1) Rulemaking: Docket number R13-19
- A) Description: On April 9, 2013, Ameren Energy Resources filed a rulemaking proposal to add a Subpart B to Part 840 of the Board's waste disposal regulations, which addresses the closure of coal combustion waste surface impoundments. Ameren states that it intends its proposal to allow it to close surface impoundments for management of coal combustion waste at eight coal-fired powered plants.
- B) Statutory Authority: Implementing and authorized by Section 8 of the Groundwater Protection Act and Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28; 415 ICLS 55/8].
- C) Scheduled meeting/hearing dates: Hearings have not been scheduled. On August 7 2014, the Board granted the proponent's request to stay this proceeding for one year while a proposed generally-applicable rulemaking proposal is pending.

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- D) Date agency anticipates First Notice: Due to the stay granted by the Board, a Notice of Proposed Amendments will not be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: As proposed, this rule would apply to surface impoundments located at eight electric generating stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

312/814-6085
Tim.Fox@illinois.gov

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Tim.Fox@illinois.gov
312/814-6085

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- p) Parts (Heading and Code Citation): Coal Combustion Waste Surface Impoundments at Power Generating Facilities (35 Ill. Adm. Code 841) (New Part)
- 1) Rulemaking: Docket number R14-10
- A) Description: On October 28, 2013, the Illinois Environmental Protection Agency filed a rulemaking proposal to add a Part 841 to the Board's waste disposal regulations. The Agency stated that it proposed a generally applicable rule for coal combustion waste (CCW) surface impoundments at power generating facilities.
- B) Statutory Authority: Implementing and authorized by Sections 12, 13, 22, 27, and 28 of the Environmental Protection Act [415 ILCS 5/12, 13, 22, 27, and 28]
- C) Scheduled meeting/hearing dates: Multiple hearings were held in Springfield and Chicago.
- D) Date agency anticipates First Notice: The Board anticipates that a Notice of Proposed Rules will be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: As proposed, this rule would apply to surface impoundments located at electric generating stations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Tim Fox
Pollution Control Board
100 W. Randolph St.

POLLUTION CONTROL BOARD

JANUARY 2015 REGULATORY AGENDA

Chicago, Illinois 60601

312/814-6085

Tim.Fox@illinois.gov

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Tim.Fox@illinois.gov
312/814-6085

- q) Parts (Heading and Code Citation): Sound Emission Standards and Limitations for Property Line Noise Sources (35 Ill. Adm. Code 901)

- 1) Rulemaking: Docket number R14-22

- A) Description: On June 2, 2014, Clifford-Jacobs Forging Company filed a rulemaking proposal to amend a previously promulgated site-specific noise rule to extend the allowable operational levels for its forging facility located in unincorporated Champaign County.
- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28].
- C) Scheduled meeting/hearing dates: A hearing was held in Urbana on September 23, 2014.
- D) Date agency anticipates First Notice: The Board anticipates that it may propose amendments for first-notice publication in the *Illinois Register* within the next six months.

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- E) Effect on small businesses, small municipalities or not for profit corporations: This rule is site-specific to Clifford-Jacobs Forging Company.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Mark Powell
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Mark.Powell@illinois.gov
312/814-6887

- G) Related Rulemaking and other pertinent information: This rulemaking is related to R83-25 Clifford-Jacobs Forging Company Petition for a Site-Specific Operation Pursuant to 35 Ill. Adm. Code 901.105(d).
- r) Part (Heading and Code Citation): Clean Construction or Demolition Debris Fill Operations and Uncontaminated Soil Fill Operations (35 Ill. Adm. Code 1100)
- 1) Rulemaking: Docket number R12-9 Subdocket B
- A) Description: At the recommendation of JCAR, the Board opens Subdocket B to continue to examine the issue of groundwater monitoring at CCDD or uncontaminated soil fill operations.
- B) Statutory authority: Implementing and authorized by Sections 5, 3.160, 22.51, 22.51a, and 27 of the Environmental Protection Act [415 ILCS 5/5, 3.160, 22.51, 22.51a & 27]

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- C) Scheduled meeting /hearing date: A hearing was held on May 20, 2013.
- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation operates CCDD or uncontaminated soil fill operations.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda to:

Marie Tipsord
Pollution Control Board
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

312/814-4925
Marie.Tipsord@illinois.gov

- G) Related rulemaking and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Marie Tipsord
Division of Legal Counsel
Illinois Environmental Protection Agency
100 W. Randolph, Suite 11-500
Chicago, Illinois 60601

312/814-4925

POLLUTION CONTROL BOARD

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Marie.Tipsord@illinois.gov

- s) Parts (Heading and Code Citation): Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 Ill. Adm. Code 1600)
- 1) Rulemaking: Docket number R14-23
- A) Description: On June 17, 2014, IEPA filed a proposal to amend the Right to Know rules. Specifically, the Agency proposes to require notice to specified members of the public if measured offsite soil gas contamination from the site where the release occurred poses a threat of exposure above the appropriate Tier I remediation objectives; or measured offsite groundwater contamination from volatile chemicals poses a threat of indoor inhalation exposure above the appropriate Tier I remediation objectives.
- B) Statutory Authority: Implementing and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/5, et. al.]
- C) Scheduled meeting/hearing dates: Hearings were held in Springfield on September 4, 2014, and in Chicago on October 16, 2014.
- D) Date agency anticipates First Notice: This Board expects to issue a first notice publication in the Illinois Register in December 2014.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule will affect these entities by applying existing Right to Know procedures where measured offsite soil gas contamination or measured offsite groundwater contamination threaten exposure above remediation objectives.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

John Therriault, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

POLLUTION CONTROL BOARD

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Address questions concerning this regulatory agenda to:

Tim Fox
Pollution Control Board
100 W. Randolph St.
Chicago, Illinois 60601

Tim.Fox@illinois.gov
312/814-6085

- G) Related Rulemaking and other pertinent information: None

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD
PURSUANT TO 415 ILCS 5/10(H) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing
for State Implementation Plan (SIP) Submittals
for National Ambient Air Quality Standards (NAAQS)

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective NAAQS SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the date of this issue of the *Illinois Register*, and a public hearing will occur by teleconference between Chicago and Springfield on January 8, 2015. The Board presently anticipates adoption of new exemptions from the definition of volatile organic material (VOM) on February 5, 2015, or within a short time after that date.

Section 10(H) of the Environmental Protection Act (Act) [415 ILCS 5/10(H)] requires the Board to do as follows:

[T]he Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere, those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act [(42 U.S.C. § 7409 (2011))].

The USEPA NAAQS are codified at 40 C.F.R. § 50. The Board is required to adopt those exemptions using the "identical in substance" rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 243.

On November 20, 2014, the Board adopted a proposal for public comment in docket R15-4 to initiate adoption of the latest USEPA amendments to and actions affecting the federal NAAQS during the period January 1, 2014 through June 30, 2014, adding later USEPA amendments of June 18, 2014.

- On June 18, 2014 (79 Fed. Reg. 34734), USEPA designated four new equivalent methods: one for nitrogen oxides (NO_x), two for ozone (O₃), and one for lead (Pb) in ambient air.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

- USEPA issued a revised version of the "List of Designated Reference and Equivalent Methods"(List of Designated Methods) on June 18, 2014.

The Board added one USEPA action that occurred after June 30, 2014 for the purpose of administrative economy:

- On November 4, 2014 (79 Fed. Reg. 65392), USEPA designated two new reference methods and two new equivalent methods: one new reference method for fine particulates (PM_{2.5}), one new reference method for coarse particulates (PM_{10-2.5}), one new equivalent for O₃, and one new equivalent for carbon monoxide (CO) in ambient air.

A Notice of Proposed Amendment appears in today's issue of the *Illinois Register* relative to the docket R15-4 proposal.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments as a revision to the Illinois SIP for ozone pursuant to section 110 of the federal Clean Air Act (42 U.S.C. § 7410(a) (2011) and the implementing USEPA regulations. See 40 C.F.R. § 51.102 and appendix V (2013).

As USEPA will require the State to have conducted a hearing on the amendments to the Illinois NAAQS rules involved in this proceeding pursuant to 42 U.S.C. § 4210(a) and 40 C.F.R. § 51.102, the Board has scheduled a public hearing in this matter to occur by teleconference between two locations, as follows:

1:30 p.m., January 8, 2015

James R. Thompson Center
Illinois Pollution Control Board Hearing Room
100 West Randolph Street, Room 11-512
Chicago

and

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board at:

Office of the Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

All comments relating to this rulemaking should clearly refer to docket number R15-4.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2012) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: www.ipcb.state.il.us.

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The June 18, 2014 and November 4, 2014 *Federal Register* notices that prompted this action (referenced in the Board's November 20, 2014 opinion and order proposing amendments);
- The June 18, 2014 update to the List of Designated Methods that prompted this action (referenced in the Board's November 20, 2014 opinion and order proposing amendments);
- Federal statutes and regulations referenced in the Board's November 20, 2014 opinion and order; and
- Illinois statutes and regulations referenced in the Board's November 20, 2014 opinion and order.

The Board requests that interested persons direct questions to the following person:

Michael J. McCambridge, Staff Attorney
Pollution Control Board
100 West Randolph Street, Room 11-500

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

Chicago, Illinois 60601

312/814-6924

michael.mccambridge@illinois.gov

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Clerk of the Board
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago, Illinois 60601

312/814-3629

john.therriault@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on February 5, 2015. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD
PURSUANT TO 415 ILCS 5/9.1(e) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing for
State Implementation Plan (SIP) Submittals for Ozone

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective ozone SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the date of this issue of the *Illinois Register*, and a public hearing will occur by teleconference between Chicago and Springfield on January 8, 2015. The Board presently anticipates adoption of a new exemption from the definition of volatile organic material (VOM) on February 5, 2015, or within a short time after that date.

Section 9.1(e) of the Environmental Protection Act (Act) [415 ILCS 5/9.1(e)] requires the Board to "exempt from regulation under the SIP for ozone the [VOMs] which have been determined by (USEPA) to be exempt from regulation under [SIPs] for ozone due to negligible photochemical reactivity." The USEPA listing of these compounds is codified at 40 C.F.R. 51.100(s). The Board is required to adopt those exemptions using the "identical in substance" rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 211.7150.

On November 20, 2014, the Board adopted a proposal for public comment in docket R15-5 to initiate adoption of the latest USEPA exemptions from the definition of VOM during the period January 1, 2014 through June 30, 2014. The USEPA action was the March 27, 2014 (79 Fed. Reg. 17037) exemption of 2-amino-2-methyl-1-propanol from regulation under state ozone SIPs. A Notice of Proposed Amendment appears in today's issue of the *Illinois Register* relative to the docket R15-5 proposal.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments as a revision to the Illinois SIP for ozone pursuant to section 110 of the federal Clean Air Act (42 U.S.C. 7410(a) (2010) and the implementing USEPA regulations. See 40 C.F.R. 51.102 and appendix V (2010).

Section 9.1(a) of the Act [415 ILCS 5/9.1(a)] requires the Board to "provide for notice, a hearing if required by [USEPA], and public comment before adopted rules are filed with the Secretary of State." As USEPA will require the State to have conducted a hearing on the exemption from the definition of VOM involved in this proceeding pursuant to 42 U.S.C. 4210(a) and 40

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

C.F.R. 51.102, the Board has scheduled a public hearing in this matter to occur by teleconference between two locations, as follows:

1:45 p.m., January 8, 2015

James R. Thompson Center
Illinois Pollution Control Board Hearing Room
100 West Randolph Street, Room 11-512
Chicago

and

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board at:

Office of the Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago, Illinois 60601

All comments relating to this rulemaking should clearly refer to docket number R15-5.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2012) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: www.ipcb.state.il.us.

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The March 27, 2014 *Federal Register* notice that prompted this action (referenced in the Board's November 20, 2014 opinion and order proposing amendments);

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

- Federal statutes and regulations referenced in the Board's November 20, 2014 opinion and order; and
- Illinois statutes and regulations referenced in the Board's November 20, 2014 opinion and order.

The Board requests that interested persons direct questions to the following person:

Michael J. McCambridge, Staff Attorney
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago, Illinois 60601

312/814-6924
michael.mccambridge@illinois.gov

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Clerk of the Board
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago, Illinois 60601

312/814-3629
john.therriault@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on February 5, 2015. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
DECEMBER 16, 2014
11:30 A.M.

***NOTICE:** It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, 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*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAging

1. Elder Rights (89 Ill. Adm. Code 270)
 - First Notice Published: 38 Ill. Reg. 2469 – 1/24/14
 - Expiration of Second Notice: 1/9/15

Children and Family Services

2. Department of Children and Family Services Scholarship Program (89 Ill. Adm. Code 312)
 - First Notice Published: 38 Ill. Reg. 13564 – 7/7/14
 - Expiration of Second Notice: 12/19/14

Financial and Professional Regulation

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

3. Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Adm. Code 1290)
 - First Notice Published: 38 Ill. Reg. 17531 – 8/22/14
 - Expiration of Second Notice: 1/2/15

Healthcare and Family Services

4. Hospital Services (89 Ill. Adm. Code 148)
 - First Notice Published: 38 Ill. Reg. 18052 – 8/29/14
 - Expiration of Second Notice: 1/21/15

Housing Development Authority

5. Foreclosure Prevention Program Graduated Fund (47 Ill. Adm. Code 386)
 - First Notice Published: 38 Ill. Reg. 18332 – 9/5/14
 - Expiration of Second Notice: 1/9/15

Illinois Liquor Control Commission

6. The Illinois Liquor Control Commission (11 Ill. Adm. Code 100)
 - First Notice Published: 38 Ill. Reg. 16634 – 8/8/14
 - Expiration of Second Notice – 1/3/15

Insurance

7. Medical Liability Insurance Rules and Rate Filings (50 Ill. Adm. Code 929)
 - First Notice Published: 38 Ill. Reg. 3281 – 1/31/14
 - Expiration of Second Notice: 12/26/14
8. Unfair Discrimination Based on Sex, Sexual Preference or Marital Status (50 Ill. Adm. Code 2603)
 - First Notice Published: 38 Ill. Reg. 17185 – 8/15/14
 - Expiration of Second Notice: 12/19/14
9. Licensing of Public Adjusters (50 Ill. Adm. Code 3118)
 - First Notice Published: 38 Ill. Reg. 13149 – 6/27/14
 - Expiration of Second Notice – 1/5/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

10. Health Carrier External Review (50 Ill. Adm. Code 5430)
 - First Notice Published: 38 Ill. Reg. 16596 – 8/8/14
 - Expiration of Second Notice – 1/8/15

- Natural Resources

11. The Taking of Reptiles and Amphibians Under a Sport Fishing License (17 Ill. Adm. Code 880)
 - First Notice Published: 38 Ill. Reg. 16654 – 8/8/14
 - Expiration of Second Notice: 1/3/15

12. Open Space Lands Acquisition and Development Grant Program (17 Ill. Adm. Code 3025)
 - First Notice Published: 38 Ill. Reg. 16143 – 8/1/14
 - Expiration of Second Notice: 1/9/15

13. Construction in Floodways of Rivers, Lakes and Streams (17 Ill. Adm. Code 3700)
 - First Notice Published: 38 Ill. Reg. 16658 – 8/8/14
 - Expiration of Second Notice: 1/3/15

14. Construction and Maintenance of Dams (17 Ill. Adm. Code 3702)
 - First Notice Published: 38 Ill. Reg. 16664 – 8/8/14
 - Expiration of Second Notice: 1/3/15

15. Regulation of Public Waters (17 Ill. Adm. Code 3704)
 - First Notice Published: 38 Ill. Reg. 16670 – 8/8/14
 - Expiration of Second Notice: 1/3/15

16. Floodway Construction in Northeastern Illinois (17 Ill. Adm. Code 3708)
 - First Notice Published: 38 Ill. Reg. 16676 – 8/8/14
 - Expiration of Second Notice: 1/3/15

- Pollution Control Board

17. General Rules (35 Ill. Adm. Code 101)
 - First Notice Published: 38 Ill. Reg. 12685 – 6/20/14
 - Expiration of Second Notice: 12/24/14

18. Regulatory and Informational Hearings and Proceedings (35 Ill. Adm. Code 102)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

-First Notice Published: 38 Ill. Reg. 12740 – 6/20/14

-Expiration of Second Notice: 12/24/14

19. Enforcement (35 Ill. Adm. Code 103)
 - First Notice Published: 38 Ill. Reg. 12757 – 6/20/14
 - Expiration of Second Notice: 12/24/14
20. Regulatory Relief Mechanisms (35 Ill. Adm. Code 104)
 - First Notice Published: 38 Ill. Reg. 12766 – 6/20/14
 - Expiration of Second Notice: 12/24/14
21. Appeals of Final Decisions of State Agencies (35 Ill. Adm. Code 105)
 - First Notice Published: 38 Ill. Reg. 12779 – 6/20/14
 - Expiration of Second Notice: 12/24/14
22. Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106)
 - First Notice Published: 38 Ill. Reg. 12785 – 6/20/14
 - Expiration of Second Notice: 12/24/14
23. Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107)
 - First Notice Published: 38 Ill. Reg. 12802 – 6/20/14
 - Expiration of Second Notice: 12/24/14
24. Administrative Citations (35 Ill. Adm. Code 108)
 - First Notice Published: 38 Ill. Reg. 12809 – 6/20/14
 - Expiration of Second Notice: 12/24/14
25. Tax Certifications (35 Ill. Adm. Code 125)
 - First Notice Published: 38 Ill. Reg. 12814 – 6/20/14
 - Expiration of Second Notice: 12/24/14
26. Identification and Protection of Trade Secrets and Other Non-Disclosable Information (35 Ill. Adm. Code 130)
 - First Notice Published: 38 Ill. Reg. 12821 – 6/20/14
 - Expiration of Second Notice: 12/24/14

Revenue

27. Income Tax (86 Ill. Adm. Code 100)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

- First Notice Published: 38 Ill. Reg. 19128 – 9/26/14
- Expiration of Second Notice: 1/4/15

28. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
 - First Notice Published: 38 Ill. Reg. 9171 – 5/2/14
 - Expiration of Second Notice: 1/4/15
29. Hotel Operators' Occupation Tax Act (86 Ill. Adm. Code 480)
 - First Notice Published: 38 Ill. Reg. 9198 – 5/2/14
 - Expiration of Second Notice: 1/4/15

Secretary of State

30. Merit Commission (80 Ill. Adm. Code 50)
 - First Notice Published: 38 Ill. Reg. 18851 – 9/19/14
 - Expiration of Second Notice: 12/19/14
31. Issuance of Licenses (92 Ill. Adm. Code 1030)
 - First Notice Published: 38 Ill. Reg. 18148 – 8/29/14
 - Expiration of Second Notice: 12/17/14

State Police

32. Concealed Carry Licensing Review (20 Ill. Adm. Code 2900)
 - First Notice Published: 38 Ill. Reg. 19364 – 10/3/14
 - Expiration of Second Notice: 1/4/15

EMERGENCY RULEMAKINGSEmployment Security

33. Notices, Records, Reports (56 Ill. Adm. Code 2760)
 - First Notice Published: 38 Ill. Reg. 22249 – 12/1/14
34. Payment Of Unemployment Contributions, Interest and Penalties (56 Ill. Adm. Code 2765)
 - First Notice Published: 38 Ill. Reg. 22262 – 12/1/14

Public Health

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER AGENDA

35. Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
-First Notice Published: 38 Ill. Reg. 21954 – 11/21/14

State Police

36. Concealed Carry Licensing Review (20 Ill. Adm. Code 2900)
-First Notice Published: 38 Ill. Reg. 19571 – 10/3/14

PEREMPTORY RULEMAKINGAgriculture

37. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)
-First Notice Published: 38 Ill. Reg. 20825 – 10/31/14

AGENCY RESPONSESEducation

38. Charter Schools (23 Ill. Adm. Code 650)
-First Notice Published: 38 Ill. Reg. 11482 – 5/30/14
-Agency Response: Agreement

Labor Relations Board

39. Public Information, Rulemaking and Organization (2 Ill. Adm. Code 2500)
-First Notice Published: 38 Ill. Reg. 19955 – 10/17/14
-Agency Response: Agreement

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of November 25, 2014 through December 1, 2014. The rulemakings are scheduled for review at the Committee's December 16, 2014 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>
1/8/15	<u>Department of Insurance</u> , Health Carrier External Review (50 Ill. Adm. Code 5430)	8/8/14 38 Ill. Reg. 16596	12/16/14
1/9/15	<u>Department of Natural Resources</u> , Open Space Lands Acquisition and Development Grant Program (17 Ill. Adm. Code 3025)	8/1/14 38 Ill. Reg. 16143	12/16/14
1/9/15	<u>Department of Aging</u> , Elder Rights (89 Ill. Adm. Code 270)	1/24/14 38 Ill. Reg. 2469	12/16/14
1/9/15	<u>Illinois Housing Development Authority</u> , Foreclosure Prevention Program Graduated Fund (47 Ill. Adm. Code 386)	9/5/14 38 Ill. Reg. 18332	12/16/14

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 50 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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