

TABLE OF CONTENTS

March 6, 2015 Volume 39, Issue 10

PROPOSED RULES

NATURAL RESOURCES, DEPARTMENT OF

White-Tailed Deer Hunting By Use of Firearms
17 Ill. Adm. Code 650.....3202

White-Tailed Deer Hunting By Use of Muzzleloading Rifles
17 Ill. Adm. Code 660.....3225

Injurious Species
17 Ill. Adm. Code 805.....3241

Aquaculture, Transportation, Stocking, Importation and/or
Possession of Aquatic Life
17 Ill. Adm. Code 870.....3249

Viral Hemorrhagic Septicemia (VHS)
17 Ill. Adm. Code 875.....3264

POLLUTION CONTROL BOARD

General Rules
35 Ill. Adm. Code 101.....3276

Enforcement
35 Ill. Adm. Code 103.....3329

Proceedings Pursuant to Specific Rules or Statutory Provisions
35 Ill. Adm. Code 106.....3336

Administrative Citations
35 Ill. Adm. Code 108.....3344

PUBLIC HEALTH, DEPARTMENT OF

Illinois Blood Bank Code (Repealer)
77 Ill. Adm. Code 490.....3355

RACING BOARD, DEPARTMENT OF

Entries, Subscriptions, and Declarations
11 Ill. Adm. Code 1413.....3415

ADOPTED RULES

ELEVATOR SAFETY REVIEW BOARD

Illinois Elevator Safety Rules
41 Ill. Adm. Code 1000.....3417

STATE POLICE, DEPARTMENT OF

Individual's Right to Access and Review Criminal History
Record Information
20 Ill. Adm. Code 1210.....3431

EMERGENCY RULES

RACING BOARD, ILLINOIS

Entries, Subscriptions, and Declarations
11 Ill. Adm. Code 1413.....3435

JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENTS OF

PROHIBITED FILINGS

COMMERCE COMMISSION, ILLINOIS

Governmental Electric Aggregation (Withdrawal)

83 Ill. Adm. Code 470.....3440

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

Notice of Public Information.....3441

CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

Notice of Public Information.....3443

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....3445

EXECUTIVE ORDERS AND PROCLAMATIONS

EXECUTIVE ORDERS

Executive Order Initiating Consolidation of Local Governments and School Districts, and Eliminating Unfunded Mandates

2015-15.....3446

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015

21	May 11, 2015	May 22, 2015
22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Firearms
- 2) Code Citation: 17 Ill. Adm. Code 650
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
650.20	Amendment
650.21	Amendment
650.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make statewide program changes, open and close State-owned or -managed sites, amend procedures to State sites, changes the existing "Random daily drawing period" for distributing deer permits remaining after 2 lottery drawings to a third (and final) lottery drawing with a fixed application deadline, and sets an application deadline for property-only deer permits.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Shelly Knuppel, Legal Counsel

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 650
WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

Section

650.10	Statewide Season and Permit Quotas
650.20	Statewide Deer Permit Requirements
650.21	Deer Permit Requirements – Landowner/Tenant Permits
650.22	Deer Permit Requirements – Special Hunts
650.23	Deer Permit Requirements – Group Hunt
650.30	Statewide Firearms Requirements
650.40	Statewide Deer Hunting Rules
650.45	Reporting Harvest
650.50	Rejection of Application/Revocation of Permits
650.60	Regulations at Various Department-Owned or -Managed Sites
650.65	Youth Hunt (Repealed)
650.66	Special Hunts for Young Hunters
650.67	Special Hunts for Disabled Hunters
650.70	Special Extended Season Firearm Deer Hunt (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified at 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendment at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5859, effective April 5, 1994; amended at 18 Ill. Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. 6477, effective April 28, 1995; amended at 20 Ill. Reg. 7515, effective May 20, 1996; amended at 21 Ill. Reg. 5572, effective April 19, 1997; amended at 21 Ill. Reg. 9116, effective June 26, 1997; amended at 22 Ill. Reg. 8007, effective April 28, 1998; amended at 23 Ill. Reg. 5564, effective April 26, 1999; amended at 24 Ill. Reg. 8971, effective June 19, 2000; amended at 24 Ill. Reg. 10260, effective July 1, 2000; amended at 25 Ill. Reg. 7231, effective May 22, 2001; amended at 26 Ill. Reg. 9319, effective June 17, 2002; amended at 27 Ill. Reg. 10009, effective June 23, 2003; emergency amendment at 27 Ill. Reg. 17270, effective November 10, 2003, for a maximum of 150 days; Section 650.60 of the emergency rules expired April 8, 2004; amended at 28 Ill. Reg. 353, effective December 19, 2003; amended at 28 Ill. Reg. 8039, effective May 26, 2004; amended at 29 Ill. Reg. 9718, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13025, effective August 10, 2005, for a maximum of 150 days; emergency expired January 1, 2006; amended at 30 Ill. Reg. 12155, effective June 28, 2006; amended at 31 Ill. Reg. 8169, effective May 25, 2007; amended at 32 Ill. Reg. 9300, effective June 13, 2008; amended at 33 Ill. Reg. 11534, effective July 27, 2009; amended at 34 Ill. Reg. 4800, effective March 19, 2010; amended at 35 Ill. Reg. 10710, effective June 23, 2011; amended at 36 Ill. Reg. 13419, effective August 10, 2012; amended at 37 Ill. Reg. 14888, effective August 30, 2013; amended at 38 Ill. Reg. 22742, effective November 18, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 650.20 Statewide Deer Permit Requirements

- a) All deer hunters must have a current, valid Firearm Deer Permit. Fees for deer permits are as follows:
 - 1) Illinois Resident Permits (issued by Deer Permit Office):
 - Either-sex – \$25
 - Bonus antlerless-only – \$17.50
 - Antlerless only for Special Hunt Areas with antlerless-only hunts – \$25
 - 2) Nonresident Permits (issued by Deer Permit Office):
 - Either-sex – \$300
 - Bonus antlerless-only – \$25
 - Antlerless-only for Special Hunt Areas with antlerless-only hunts – \$300
 - 3) In addition to a Special Hunt Area permit issued under subsection (a)(1) or (a)(2), a hunter may obtain additional Special Hunt Area permits, issued by staff at the Special Hunt Area, when unfilled permits are available.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Fees:

Either-sex (full, 1st or 2nd season) – \$25 regardless of residency

Antlerless-only (full, 1st or 2nd season) – \$17.50 regardless of residency

One-day standby permits – \$5 regardless of residency

- b) A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area (with the exception of special hunt areas offering antlerless-only hunts), until the ~~Third Lottery Random Daily~~ Drawing ~~Period that begins in August~~, at which time antlerless-only permits remaining in the quota will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources
(Firearm or Landowner/Tenant or Non-Resident)
Deer Permit Office
P.O. Box 19227
Springfield, Illinois 62794-9227

- c) Applications from Illinois residents for participation in the First Lottery Drawing will be accepted through April 30 of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after April 30 will not be included in this lottery. Permits will be allocated in a computerized random drawing. Permits will be issued as either sex, antlerless only, or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Applicants for free landowner/tenant permits are not eligible to participate in the First or Second Lottery Drawings. Landowners who receive permits in the First or Second Lottery Drawing are not eligible for landowner permits. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident deer permit.
- d) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the deadline established in subsection (c).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- e) Applicants must check the second-season box if they agree to accept a second-season permit upon being rejected for a full-season permit.
- f) Applicants must check the antlerless-only box and provide the appropriate fee to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- g) Permits for counties and special hunt areas with unfilled quotas after the First Lottery Drawing will be allocated in a Second Lottery Drawing. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued firearm permits for the current hunting season. Illinois residents will be given preference for permits allocated in the Second Lottery Drawing. Applications for the Second Lottery Drawing will be accepted through June 30 of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and providing the appropriate fee. A list of unfilled counties and special hunt areas will be announced upon becoming available after the First Lottery Drawing. Applicants must apply on a current year Firearm Deer Permit application form. A maximum of one either-sex and one antlerless-only permit shall be issued per person.
- h) A Third Lottery Drawing will be held during which anyone (regardless of any other deer permit they may have) may apply for one or more either-sex and/or antlerless-only permits for counties or special hunt areas with unfilled quotas. Applications for the Third Lottery Drawing will be accepted through the third Friday in August of the current year. A list of unfilled counties and special hunt areas will be announced upon becoming available after the Second Lottery Drawing. Applicants must apply on a current year Firearm Deer Permit application form. All applications for the Third Lottery will be processed individually (i.e., no group applications will be processed) There will be an application period that starts the second Tuesday in August and ends the second Monday in September, during which anyone (regardless of any other permit they may have, subject to subsection (b)) can apply for firearm deer permits left over from the county and special hunt area quotas. During this application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~application period. Applicants must mark the "Random Daily Drawings" box on the firearm deer permit application.~~

- i) Permits remaining after the ~~Third Lottery~~~~Random Daily~~ Drawing will be available over-the-counter (OTC) from agents designated by the Department (pursuant to 17 Ill. Adm. Code 2520) beginning the third Tuesday in October on a first-come, first-served basis. Permits will be sold until quotas are exhausted, or until the close of the firearm deer season, whichever occurs first. Persons may purchase one or more permits during this period, subject to availability. Persons purchasing OTC deer permits must supply all necessary applicant information to the agents in order to properly complete the permit.

- j) Hunter preference in obtaining a permit during the First Lottery Drawing will be given: to individuals that applied for an either-sex permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choices; or to applicants that received, in the previous year, a second season either-sex permit in the First Lottery Drawing only. In order to be eligible for preference during the First Lottery Drawing, the second season box must have been checked on the application form of unsuccessful applicants when they were rejected. Preference will not be granted to applicants who received a full-season either-sex permit but who did not receive an antlerless-only permit. Persons with lottery preference will have first chance at receiving available either-sex permits. The following criteria must be met to obtain a preference in the First Lottery Drawing:
 - 1) The applicant must apply using the official Department application.
 - 2) The applicant must be a resident of the State, be eligible to receive a Firearm Deer Permit, and not had deer hunting privileges revoked pursuant to Section 650.50.
 - 3) The applicant must apply for the same county choices that he/she listed on the previous year's application. Preference will not be granted for special hunt areas.

- k) Applications may be accepted at the counter window of the permit office; however, permits for the First Lottery, Second Lottery and ~~Third Lottery~~~~Random Daily~~ Drawing will be mailed. In-person, mail-in and electronic applications will receive equal treatment in the drawings.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- l) Permits are not transferable. Refunds will not be granted, unless the Department of Natural Resources has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- m) A \$3 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there will be no charge. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies derived from this source will be deposited in the Wildlife and Fish Fund.
- n) The periods for accepting applications for the First and Second Lottery periods may be extended if applications are not available to the public by April 1. A news release will announce the extension of the application periods.
- o) Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 650.21 Deer Permit Requirements – Landowner/Tenant Permits

- a) The immediate family of a landowner or tenant is defined as, and limited to, the spouse, children and parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit.
- c) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free either-sex permit for their property only in counties open for firearm deer hunting. Recipients of the free either-sex permit will also be given a free antlerless-only permit for their property only. Nonresident Illinois landowners (of 40 acres or more land) are also eligible to apply for one either-sex permit and one antlerless-only permit for their property only. The fee to nonresident Illinois landowners (of 40 acres or more land) for permits for their property only shall be \$150 for the either-sex permit

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

and \$25 for the antlerless-only permit. These applications will not be subject to the public lottery process. This deer hunting permit *shall be valid on all farmlands which the person to whom it is issued owns, leases or rents* [525 ILCS 5/2.26] in counties open for firearm deer hunting.

- d) Bona fide Illinois landowners or tenants who do not wish to hunt only on the land they own, rent, or lease must apply for permits in the same manner as the applicant who is not a landowner or tenant. However, resident Illinois landowners who own 40 acres or more of land, and resident tenants leasing or renting 40 acres or more of commercial agricultural land, who apply during the First Lottery application period for a permit to hunt in the county in which they own or lease land and are rejected because the county quota is full, may apply for a county-wide either-sex paid landowner firearm deer permit to hunt in the county where the land is located. Members of the immediate family of the landowner or tenant are also eligible to apply for a county-wide either-sex paid landowner firearm deer permit if they were rejected in the First Lottery. Applications for county-wide paid landowner deer permits will be accepted from August 1 through the last working day in August. Incomplete applications will be returned. The fee for a county-wide either-sex paid landowner deer permit shall be the same as for permits for hunters that are not landowners or tenants. Recipients of a county-wide either-sex paid landowner deer permit may also apply for a regular bonus antlerless-only permit for that county, but will be issued such permit only if there are antlerless permits remaining in the county quota. Landowners and tenants, and their immediate families, who did not apply for permits in the First Lottery and subsequently fail to receive them, are not eligible to apply for or receive county-wide paid landowner deer permits.
- e) Property-only hunting permit renewal and first time applications will be accepted as soon as they are available. The application deadline for all property-only applications (both renewal and first time) is October 1~~Date of acceptance of landowner/tenant property-only permit applications will be publicly announced.~~
- f) Landowners and resident tenants are not required to participate in the public drawing for permits in order to apply for and receive a property-only permit.
- g) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
- 1) Submittal of a copy of property deed, recorded/file stamped by the County

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Recorder or County Clerk;

- 2) Submittal of a copy of contract for deed, recorded/file stamped by the County Recorder or County Clerk;
 - 3) Submittal of a copy of the most recent real estate tax statement for the property that identifies the property acreage (upon which the landowner's name appears as landowner, or person signing application appears as landowner);
 - 4) Submittal of a copy of a current Farm Service Agency 156EZ form; or
 - 5) Submittal of a copy of a trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- h) Tenant permit applicants are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
- 1) A copy of a lease or a rental agreement, file stamped as recorded by the County Recorder or County Clerk, covering the current year. The agreement must contain the landowner's signature, tenant's signature, description of monetary consideration, specified period of the lease and acreage involved, and a statement that the lease is for agricultural purposes; or
 - 2) A copy of a current Farm Service Agency 156EZ form.
- i) A hunting rights lease, or other non-agricultural lease, is not valid as a basis for obtaining a landowner or tenant permit.
- j) County-wide permit holders are authorized to firearm deer hunt only in the county identified on the deer permit and only on property where permission to hunt has been obtained from the property owner.
- k) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) shall be issued a permit on a first-come, first-served basis for every 40 acres of owned or rented

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive deer permits.

- 1) Bona fide equity shareholders of corporations, bona fide equity members of limited liability companies, bona fide current income beneficiaries of trusts or bona fide partners of a partnerships owning 40 or more acres of land in a county may apply for one either-sex permit to hunt the corporation, limited liability company, trust or partnership lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, for corporations, trusts and limited liability companies, and a maximum number of 3 permits per county for partnerships, shall be issued based on ownership of lands by corporations, limited liability companies, trusts or partnerships. Lands leased to corporations, limited liability companies, trusts or partnerships shall not be considered as a basis for a permit for the shareholders/members/beneficiaries/partners of the lessee. Lands held in trust by corporations, limited liability companies or partnerships shall not be considered as a basis for a permit by the shareholders/members/partners of the trustee. If application is made for a permit based upon lands owned by the corporation, limited liability company, trust or partnership, a duly authorized officer of the corporation, limited liability company, trust or partnership must sign a notarized statement authorizing the applicant to hunt on the corporate, company, trust or partnership lands for which a permit is being requested. This statement must identify the applicant as a bona fide equity shareholder, member, beneficiary or partner, as defined in this subsection, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation, limited liability company, or trust lands and no more than 3 authorizations will be requested per county for partnership lands.

- 1) In addition:
 - A) Corporation applicants must submit a copy of ownership interest in a for-profit corporation with a fully-executed stock certificate, articles of incorporation or corporate agreement;
 - B) limited liability company applicants must submit a copy of the limited liability company's articles of organization or the operating agreement;
 - C) limited partnerships, limited liability limited partners, and limited liability partnership applicants must submit a copy of the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

partnership agreement, certificate of partnership or statement of qualification; and

- D) general partnership applicants must submit a copy of the partnership agreement.
- 2) These documents must be attached to the application upon submittal to the Permit Office. The shareholder/member/partner either-sex permit shall be free to resident shareholders/members/partners, and the cost to nonresident shareholders/members shall be \$150. An antlerless-only shareholder/member/partner permit (free to resident shareholders/members/partners; \$25 to nonresident shareholders/members) will be made available if in the best interest of managing the deer herd. Nonresident partners cannot receive permits under this subsection.
 - 3) Bona fide equity shareholder means an individual who:
 - A) purchased, for market price, publicly sold stock shares in a corporation; purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation; or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership; and
 - B) intends to retain the ownership of the shares of stock for at least 5 years.
 - 4) Bona fide equity member means an individual who:
 - A) became a member upon the formation of the limited liability company; or has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the limited liability company assets represented by the distributional interest in the limited liability company and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act; and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- B) intends to retain the membership for at least 5 years.
- 5) Bona fide current income beneficiary means an individual who, at the time of application for a permit, is entitled to income (whether income exists or not) from the trust that owns the land the applicant wishes to hunt with no condition precedent (such as surviving another person, reaching a certain age, etc.) other than the trustee distributing the income, and is listed by name in the trust documents as an income beneficiary.
- 6) Bona fide equity partner means an individual who:
- A) became a partner, either general or limited, upon the formation of the partnership; or has purchased a distributional interest in the partnership or limited partnership for a value equal to the percentage of the appraised value of the partnership assets represented by the distributional interest in the partnership;
 - B) intends to retain ownership of the partnership for at least 5 years; and
 - C) is a resident of Illinois.
- m) Landowners or tenants that apply for or receive property-only landowner/tenant firearm deer permits may not apply for additional permits in the First or Second Lottery Drawing. Landowners or tenants that apply for county-wide paid landowner firearm deer permits must have been rejected in the First Lottery drawing for a permit in the county in which they own or lease land, and they may not apply for additional permits in the Second Lottery Drawing.
- n) *For the purposes of calculating acreage under this Section, the Department shall, after determining the total acreage of the applicable tract or tracts of land, round remaining fractional portions of an acre greater than or equal to half of an acre up to the next whole acre [520 ILCS 5/2.26].*
- o) Providing false information on an application is a Class A misdemeanor (see 520 ILCS 5/2.38).

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 650.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) It is unlawful to drive deer, or participate in a deer drive, on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within firearm range of one or more participating hunters.
- c) Only one tree stand or ground blind is allowed per deer permit holder. ~~Tree~~~~These~~ ~~tree~~ stands and ground blinds must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and (c)(12) and must be portable. Tree stands and ground blinds must be removed at the end of each day with the exception that they may be left unattended from September 15-January 31 at those sites listed in this Section that are followed by a (1). Any tree stand or ground blind left unattended overnight must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- d) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (6).
- e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (3).
- f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- g) Statewide regulations shall apply at the following sites:
 - Alvah Borah State Habitat Area (1) (6)
 - Big Grand Pierre Glade State Natural Area (1)
 - Cache River State Natural Area (1) (2)
 - Campbell Pond State Habitat Area (1) (6)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Cape Bend State Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands except for Jim Hawn and East Spillway areas that are closed to firearm deer hunting)

Carlyle Lake State Fish and Wildlife Area (except subimpoundment area) (6)

Chauncey Marsh State Natural Area (1) (6)

Collier Limestone Glade State Natural Area (1)

~~Copperhead Hollow State Wildlife Area (6)~~

Crawford County Fish and Wildlife Area (1) (6)

Cretaceous Hills State Natural Area (1) (6)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Deer Pond State Natural Area (1) (2)

Devil's Island State Wildlife Management Area

Dog Island State Wildlife Management Area (1) (6)

Ferne Clyffe State Park – Cedar/Draper Bluff Hunting Area (1) (2)

Fort de Chartres State Historic Site (muzzleloading rifles only; no in-line muzzleloading rifles or muzzleloaders with scopes allowed) (1) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Hamilton County State Conservation Area (1) (6)

Horseshoe Lake State Fish and Wildlife Area – Alexander County (all portions of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

Kaskaskia River State Fish and Wildlife Area, excluding Doza Creek Water Management Area and Baldwin Lake Rest Area (1) (2, except south of Highway 154 and north of Highway 13)

Kinkaid Lake State Fish and Wildlife Area (1) (2)

Lake Le Aqua Na State Park (standby hunting allowed during the first season if all blinds not filled by youth hunters)

Lusk Creek Canyon State Natural Area (1)

Meeker State Habitat Area (1) (6)

Mermet Lake State Conservation Area (1) (6)

Miller-Anderson Woods State Natural Area (Bureau County permit holders may hunt the Bureau County portion of the Area and Putnam County permit holders may hunt the Putnam County portion of the Area) (2)

Mississippi State Fish and Waterfowl Management Area – Pools 25 and 26 (Batchtown, Crull Hollow and Godar Waterfowl Rest Areas are closed to hunting beginning 14 days before the regular duck season; areas reopen to hunting the day after duck season closes; it is unlawful to trespass upon the designated duck hunting areas between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site; no deer hunting is allowed within 200 yards of an occupied duck blind; during duck season only, deer hunters may not access the designated duck hunting areas by launching a boat at certain specifically posted boat ramps; boat ramps reopen to deer hunters the day after duck season closes; hunting is allowed at Red's Landing and Riprap Landing walk-in areas from 12:00 p.m. to ½ hour after sunset during duck season, statewide hours during remainder of the season) (1)

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Oakford State Conservation Area ~~(4)~~

Pere Marquette State Park (1) (6)

Rend Lake State Fish and Wildlife Area and Corps of Engineers' managed areas of Rend Lake

Saline County State Fish and Wildlife Area (1) (6)

Sielbeck Forest State Natural Area (1) (6)

Skinner Farm State Habitat Area (1) (2)

Ten Mile Creek State Fish and Wildlife Area ([areas designated as Waterfowl Rest Areas are closed to all access during the Canada Goose Season only](#)) (1); Belle Rive Unit only (3)

Trail of Tears State Forest (1) (2)

Turkey Bluffs State Fish and Wildlife Area (1) (2)

Union County State ~~Fish and Wildlife Conservation~~ Area (Firing Line Unit only) (1) (2)

Weinberg-King State Park – Spunky Bottoms Unit (6)

Wildcat Hollow State Forest (1) (6)

Wise Ridge State Natural Area (1)

- h) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (5). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, unless exempt. Standby hunters

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5. All hunters must check out and report harvest. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by (6). In the event that Department budget reductions or site staffing reductions make the operation of check stations or issuance of standby permits impractical, changes to check station procedures and standby permit issuance will be publicly announced and posted at the site.

Apple River Canyon State Park – Thompson and Salem Units (first or second season only) (6)

Argyle Lake State Park (2) (5)

Big River State Forest (2) (5)

[Burning Star State Fish and Wildlife Area \(6\)](#)

Butterfield Trail State Recreation Area (6)

Carlyle Lake State Fish and Wildlife Area – East Fork Unit in Clinton County

Castle Rock State Park (first or second season only) (1) (5) (6)

Cedar Glen State Natural Area (1) (6)

Chain O'Lakes State Park (first season permits only; hunting from elevated stands only, 6 feet minimum above the ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department; all hunters must attend a site lottery drawing for designated hunter stations) (1) (2)

Clinton Lake State Recreation Area (only in the area between County Highway 14 and State Route 48 – both sides of lake) (6)

Coffeen Lake State Fish and Wildlife Area

[Copperhead Hollow State Fish and Wildlife Area \(1\) \(6\)](#)

Des Plaines State Conservation Area (first season only) (2) (5)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Ferne Clyffe State Park – Ferne Clyffe Hunting Area (1) (2)

Flag Pond State Natural Area (1)

Fort Massac State Park (~~62~~)

Fox Ridge State Park (1) (6)

Franklin Creek State Natural Area (first or second season only) (5) (6)

French Bluff State Natural Area (1) (6)

Goose Lake Prairie State Natural Area/Heidecke State Fish and Wildlife Area
(first or second season only) (2) (5)

Green River State Wildlife Area (first or second season only) (1) (5) (6)

Hanover Bluff State Natural Area (first or second season only) (6)

Harry "Babe" Woodyard State Natural Area (3) (6)

Henry Allan Gleason State Natural Area (2)

Hidden Springs State Forest (1) (6)

Horseshoe Lake State Fish and Wildlife Area – Refuge (Alexander County)
(hunting only on the third Friday and Saturday of October) (2)

Iroquois County State Conservation Area (first season only) (5) (6)

Iroquois County State Conservation Area (second season only; no hunting in the
controlled pheasant hunting area) (5) (6)

Jim Edgar Panther Creek State Fish and Wildlife Area (1) (3)

Jubilee College State Park (first or second season only; hunting is prohibited in
marked zones (handicapped hunt area and areas within 300 yards of an inhabited
dwelling); ~~only one tree stand is allowed per deer permit holder; these tree stands~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable;~~ tree stands may be erected the day before the first season and must be removed by the day after the end of the second season; ~~any tree stand left unattended overnight must be legibly marked with the owner's name, address, and telephone number~~ (2) (5)

Kaskaskia River Fish and Wildlife Area (Baldwin Lake Rest Area; first or second season only; hunting from elevated stands only; six feet minimum above ground; hunting must occur within 20 yards of an assigned, numbered stake; an inhouse drawing will be held in mid-October for such assignments; hunters will be notified by mail of their hunting location; no hunters may enter the area before 5:00 a.m.) (1) (2) (5 – last 2 days of second season)

Kickapoo State Recreation Area (6)

Kishwaukee River State Fish and Wildlife Area (first or second season only) (6)

Lake Shelbyville State Fish and Wildlife Area (must have valid permit for Lake Shelbyville Project Lands – Moultrie County) (6)

Lowden-Miller State Forest (first or second season only) (1) (5) (6)

Mackinaw River State Fish and Wildlife Area (1) (2) (5)

Marseilles Fish and Wildlife Area (first or second season only) (all tree stands must be removed no later than the last day of the archery deer season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2) (5)

Marshall State Fish and Wildlife Area (2) (5)

Middle Fork State Fish and Wildlife Area (6)

Mississippi Palisades State Park (first season only) (1) (5) (6)

Momence Wetlands State Natural Area

Moraine Hills State Park (first or second season permits only; ~~an antlerless deer~~)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~permit must be filled before filling an either sex permit~~, hunting from elevated stands only, 6 feet minimum above ground except for designated accessible blinds; firearms must be fully enclosed in a case, except while the hunter is in an elevated stand or as otherwise authorized by an employee of the Department) (2) (5)

Morrison-Rockwood State Park (first season only) (5)

Newton Lake State Fish and Wildlife Area (6)

Paul C. Burrus State Habitat Area (6)

Peabody River King State Fish and Wildlife Area

Prairie Ridge State Natural Area (Jasper County)

Pyramid State Park (3) (6)

[Pyramid State Park – Captain Unit \(3\) \(6\)](#)

[Pyramid State Park – Denmark Unit \(3\) \(6\)](#)

Pyramid State Park – East Conant Unit (3) (6)

Pyramid State Park – Galum Unit (3) (6)

Rall Woods State Natural Area (first or second season only) (6)

Ray Norbut State Fish and Wildlife Area (6)

[Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit \(6\)](#)

Revis Hill Prairie State Natural Area (2)

~~[Sahara Woods State Fish and Wildlife Area \(1\) \(6\)](#)~~

Sand Ridge State Forest (2)

Sangamon County State Conservation Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Sanganois State Wildlife Area (Ash Swale Waterfowl Rest Area will be closed to deer hunting during the waterfowl hunting season) (1) (6)

Siloam Springs State Park (3) (6)

Spoon River State Forest (first or second season only) (1) (6)

Starved Rock State Park (first or second season only; permit includes Starved Rock State Park, Matthiessen State Park, Margery C. Carlson State Natural Area, Mitchell's Grove State Natural Area and Sandy Ford State Natural Area; all initial permits will be issued as antlerless only; hunters must take an antlerless deer during the current year firearm season on site before they can purchase an either-sex site-specific permit; hunters must check antlerless deer with site staff for verification to participate in bonus buck program; standby hunters may purchase up to 2 one-day site-specific antlerless-only permits each day) (2) (5)

Tapley Woods State Natural Area (first or second season only) (6)

[Union County State Fish and Wildlife Area – Refuge \(hunting only on the first Friday and Saturday of November\) \(2\)](#)

[Vesely Land and Water Reserve/Wilmington Shrub Prairie Nature Preserve \(first or second season only\)](#)

Wards Grove State Nature Preserve (first or second season only; antlerless only) (6)

Weinberg-King State Park (6)

Weinberg-King State Park – Scripps Unit (6)

Weldon Springs State Park – Piatt County Unit (6)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the first statewide firearm deer season only) (5) (6)

White Pines Forest State Park (Monday, Tuesday and Wednesday prior to the second statewide firearm deer season only) (5) (6)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Winston Tunnel State Natural Area (first or second season only) (6)

Witkowsky State Wildlife Area (first or second season only) (6)

Wolf Creek State Park (participants in the Corps of Engineers special disabled hunt program are exempt from site's antler restrictions; for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) (3) (6)

- i) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Muzzleloading Rifles
- 2) Code Citation: 17 Ill. Adm. Code 660
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
660.20	Amendment
660.30	Amendment
660.60	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make statewide program changes, open and close State-owned or –managed sites, amend procedures at State sites; change the existing "Random daily drawing period" for distributing deer permits remaining after 2 lottery drawings to a third (and final) lottery drawing with a fixed application deadline, and changes the language to refer to "rifles" instead of firearms" to clarify the types of firearms that are allowed.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Shelly Knuppel, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 660
WHITE-TAILED DEER HUNTING BY USE
OF MUZZLELOADING RIFLES

Section

660.10	Statewide Season and Permit Quotas
660.20	Statewide Deer Permit Requirements
660.21	Deer Permit Requirements – Landowner/Tenant Permits
660.22	Deer Permit Requirements – Special Hunts
660.25	Deer Permit Requirements – Group Hunt
660.30	Statewide Muzzleloading Rifle Requirements
660.40	Statewide Deer Hunting Rules
660.45	Reporting Harvest
660.50	Rejection of Application/Revocation of Permits
660.60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.20, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 15 Ill. Reg. 11627, effective August 2, 1991; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. 6500, effective April 28, 1995; amended at 20 Ill. Reg. 6734, effective May 6, 1996; amended at 21 Ill. Reg. 5583, effective April 19, 1997; amended at 21 Ill. Reg. 9122, effective June 26, 1997; amended at 22 Ill. Reg. 8026, effective April 28, 1998; amended at 23 Ill. Reg. 5579, effective April 26, 1999; amended at 24 Ill. Reg. 10251, effective July 1, 2000; amended at 25 Ill. Reg. 6367, effective April 27, 2001; amended at 26 Ill. Reg. 9340, effective June 17, 2002; amended at 27 Ill. Reg. 10018, effective June 23, 2003; amended at 28 Ill. Reg. 8056, effective May 26, 2004; amended at 29 Ill. Reg. 9744, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13032, effective August 10, 2005, for a maximum of 150 days; emergency expired January 6, 2006; amended at 30 Ill. Reg. 12181, effective June 28, 2006; amended at 31 Ill. Reg. 8188, effective May 25, 2007; amended at 32 Ill. Reg. 9325, effective June 13, 2008; amended at

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

33 Ill. Reg. 11555, effective July 27, 2009; amended at 34 Ill. Reg. 4824, effective March 19, 2010; amended at 35 Ill. Reg. 10728, effective June 23, 2011; amended at 36 Ill. Reg. 13436, effective August 10, 2012; amended at 37 Ill. Reg. 14913, effective August 30, 2013; amended at 38 Ill. Reg. 22748, effective November 18, 2014; amended at 39 Ill. Reg. _____, effective _____.

Section 660.20 Statewide Deer Permit Requirements

- a) All deer hunters must have a current, valid Muzzleloading Rifle Deer Permit. Fees for deer permits are as follows:
- 1) Illinois Resident Permits (issued by Deer Permit Office):
Either-sex – \$25
Bonus antlerless-only – \$17.50
Antlerless only for Special Hunt Areas with antlerless-only hunts – \$25
 - 2) Nonresident Permits (issued by Deer Permit Office):
Either-sex – \$300
Bonus antlerless-only – \$25
Antlerless-only for Special Hunt Areas with antlerless-only hunts – \$300
 - 3) In addition to a Special Hunt Area permit issued under subsection (a)(1) or (a)(2), a hunter may obtain additional Special Hunt Area permits, issued by staff at the Special Hunt Area, when unfilled permits are available.
Fees:
Either-sex (full, 1st or 2nd season) – \$25 regardless of residency
Antlerless-only (full, 1st or 2nd season) – \$17.50 regardless of residency
One-day standby permits – \$5 regardless of residency
- b) A permit is issued for one county and is valid only in the county stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area (with the exception of special hunt areas offering antlerless-only hunts), until the ~~Third Lottery~~[Random Daily Drawing Period that begins in August](#), at which time antlerless-only permits remaining in the quota will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department of Natural Resources
(Muzzleloading Rifle)
Deer Permit Office
P.O. Box 19227
Springfield, IL 62794-9227

- c) Applications from Illinois residents for participation in the First Lottery Drawing shall be accepted through April 30 of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after April 30 shall not be included in this lottery. Permits shall be allocated in a computerized random drawing. Permits shall be issued as either-sex, antlerless-only or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident deer permit.
- d) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the last weekday in April of the current year.
- e) Applicants must check the antlerless-only box and provide the appropriate fee to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.
- f) Permits for counties and special hunt areas with unfilled quotas after the First Lottery Drawing shall be allocated in a Second Lottery Drawing. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued muzzleloader permits for the current hunting season. Illinois residents will be given preference for permits allocated in the Second Lottery Drawing. Applications for the Second Lottery Drawing will be accepted through June 30 of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and providing the appropriate fee. A list of unfilled counties shall be announced upon becoming available after the First Lottery Drawing. Applicants must apply on a current year Muzzleloading Rifle Deer Permit application form. A maximum of one either-sex and one antlerless-only permit shall be issued per person.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- g) A Third Lottery Drawing will be held during which anyone (regardless of any other deer permit he or she may have) may apply for one or more either-sex and/or antlerless-only permits for counties or special hunt areas with unfilled quotas. Applications for the Third Lottery Drawing will be accepted through the third Friday in August of the current year. A list of unfilled counties and special hunt areas will be announced upon becoming available after the Second Lottery Drawing. Applicants must apply on a current year Muzzleloading Rifle Deer Permit application form. All applications for the Third Lottery will be processed individually (i.e., no group applications will be processed)There will be an application period that starts the second Tuesday in August and ends the second Monday in September during which anyone (regardless of any other permit they may have, subject to the restriction in subsection (b)) can apply for muzzleloading deer permits left over from the county and special hunt area quotas. During this application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this application period. Applicants must mark the "Random Daily Drawings" box on the muzzleloading rifle deer permit application.
- h) Permits remaining after the Third Lottery~~Random Daily~~ Drawing will be available over-the-counter (OTC) from agents designated by the Department (pursuant to 17 Ill. Adm. Code 2520) beginning the third Tuesday in October on a first-come, first-served basis. Permits will be sold until quotas are exhausted, or until the close of the muzzleloader deer season, whichever occurs first. Persons may purchase one or more permits during this period, subject to availability. Persons purchasing OTC deer permits must supply all necessary applicant information to the agents in order to properly complete the permit.
- i) Hunter preference in obtaining a muzzleloading rifle permit during the First Lottery Drawing shall be given to individuals that applied for an either-sex muzzleloading permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choices. The following criteria must be met to obtain a preference in the muzzleloading rifle First Lottery Drawing:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) The applicant must apply using the official agency application.
 - 2) The applicant must be a resident of the State, be eligible to receive a Muzzleloading Rifle Deer Permit, and not had deer hunting privileges revoked pursuant to Section 660.50.
 - 3) The applicant must apply for the same county choices that he/she listed on the previous year's application. Preference will not be granted for special hunt areas.
 - 4) Where applicants apply as a group, preference for the entire group shall apply as it does above for the individual. All county choices for the group must be identical.
- j) Applications shall be accepted at the counter window of the permit office; however, permits for the First Lottery, Second Lottery and ~~Third Lottery~~ ~~Random Daily~~ Drawing shall be mailed. In-person, mail-in and electronic applications will receive equal treatment in the drawings.
- k) Permits are not transferable. Refunds shall not be granted unless the Department of Natural Resources has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- l) A \$3 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.
- m) The period for accepting applications for the First and Second Lottery periods shall be extended if applications are not available to the public by April 1. A news release will announce the extension of the application period.
- n) Hunting without a permit is a Class B misdemeanor (see 520 ILCS 5/2.24). Providing false information on a permit application is a Class A misdemeanor (see 520 ILCS 5/2.38).

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 660.30 Statewide Muzzleloading Rifle Requirements

- a) The only legal hunting device is a single or double barreled muzzleloading ~~rifle~~firearm of at least .45 caliber shooting a single projectile through a barrel of at least 16 inches in length.
- b) The standards and specifications for muzzleloading ~~rifles~~firearms and ammunition are as follows:
 - 1) A muzzleloading ~~rifle~~firearm is defined as a ~~rifle~~firearm that is incapable of being loaded from the breech end.
 - 2) The minimum size of the muzzleloading ~~rifle~~firearm projectile shall be .44 caliber. A wad or sleeve is not considered a projectile or a part of the projectile. Non-expanding, military-style full metal jacket bullets cannot be used to harvest white-tailed deer; only soft point or expanding bullets (including copper/copper alloy rounds designed for hunting) are legal ammunition.
 - 3) Only black powder or a "black powder substitute" such as Pyrodex may be used. Modern smokeless powders (nitrocellulose-based) are an approved blackpowder substitute only in muzzleloading ~~rifles~~firearms that are specifically designed for their use.
 - 4) Only percussion caps, wheellock, matchlock or flint type ignition may be used, except the Connecticut Valley Arms (CVA) electronic ignition shall be legal to use.
 - 5) Removal of percussion cap or removal of prime powder from frizzen pan with frizzen open and hammer all the way down or removal of prime powder from flashpan and wheel unwound or removal of prime powder and match with match not lit, or removal of the battery from the CVA electronic ignition muzzleloader, shall constitute an unloaded muzzleloading ~~rifle~~firearm.
- c) It shall be unlawful to use or possess any other firearm or ammunition in the field while hunting white-tailed deer during the muzzleloading rifle deer season.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

However, the lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than muzzleloading deer hunters shall not be prohibited during the muzzleloading rifle deer season as set in Section 660.10.

- d) Violation of this Section is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 660.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 – General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) Only one tree stand or ground blind is allowed per deer permit holder. Tree stands and ground blinds must comply with restrictions listed in 17 Ill. Adm. Code 510(c)(3) and (c)(12), and must be portable. Tree stands and ground blinds must be removed at the end of each day with the exception that they may be left unattended from September 15-January 31 at those sites listed in this Section that are followed by a (1). Any tree stand or ground blind left unattended overnight must be legibly marked with the owner's name, address, and telephone number, or site assigned identification number.
- c) It is unlawful to drive deer or participate in a deer drive on all Department-owned or -managed properties. A deer drive is defined as a deliberate action by one or more persons (whether armed or unarmed) whose intent is to cause deer to move within firearm range of one or more participating hunters.
- d) Check-in, check-out and reporting of harvest is required at those sites listed in this Section that are followed by a (2). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (7).
- e) Handicapped preferred hunting opportunities are provided at those sites listed in this Section that are followed by a (3).
- f) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- g) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- h) Statewide regulations shall apply at the following sites:
- Alvah Borah State Habitat Area (1) (7)
 - Big Grand Pierre Glade State Natural Area (1)
 - Cache River State Natural Area (1) (2)
 - Campbell Pond State Fish and Wildlife Area (1) (7)
 - Cape Bend State Fish and Wildlife Area (1) (2)
 - Carlyle Lake State Fish and Wildlife Area except subimpoundment areas (7)
 - Carlyle Lake Lands and Waters – Corps of Engineers managed lands (closed to firearm deer hunting in the Jim Hawn and East Spillway Areas)
 - Chauncey Marsh State Natural Area (1) (7)
 - Collier Limestone Glade State Natural Area (1)
 - Copperhead Hollow State Wildlife Area (1) (7)
 - Crawford County State Fish and Wildlife Area (1) (7)
 - Cretaceous Hills State Natural Area (1) [\(7\)](#)
 - Cypress Creek National Wildlife Refuge
 - Cypress Pond State Natural Area (1) (2)
 - Deer Pond State Natural Area (1) (2)
 - Devil's Island State Wildlife Management Area

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Dog Island State Wildlife Management Area (1) (7)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (no in-line muzzleloading rifles or muzzleloaders with scopes allowed) (1) (2)

George S. Park Memorial Woods State Natural Area (2)

Giant City State Park (1) (2)

Hamilton County State Fish and Wildlife Area (1) (7)

Horseshoe Lake Fish and Wildlife Area – Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

Kaskaskia River State Fish and Wildlife Area (1) (2, except south of Highway 154 and north of Highway 13) (Doza Creek Waterfowl Management Area is closed during duck season)

Kickapoo State Recreation Area (closed during second firearm deer season) (1) (2)

Kinkaid Lake State Fish and Wildlife Area (1) (2)

Lusk Creek Canyon State Natural Area (1)

Meeker State Habitat Area (1) (7)

Mermet Lake State Conservation Area (1) (7)

Middle Fork State Fish and Wildlife Area (closed during second firearm deer season) (1) (7)

Miller-Anderson Woods State Natural Area (Bureau County permit holders may hunt the Bureau County portion of the area and Putnam County permit holders may hunt the Putnam County portion of the area) (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Mississippi River Pool 16 (1)

Mississippi River Pool 17 (1)

Mississippi River Pool 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Mississippi State Fish and Waterfowl Management Area – Pools 25 and 26 (Batchtown, Crull Hollow and Godar Waterfowl Rest Areas are closed to hunting beginning 14 days before the regular duck season; areas reopen to hunting the day after duck season closes; it is unlawful to trespass upon the designated duck hunting areas between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site; no deer hunting is allowed within 200 yards of an occupied duck blind; during duck season only, deer hunters may not access the designated duck hunting areas by launching a boat at certain specifically posted boat ramps; boat ramps reopen to deer hunters the day after duck season closes; hunting is allowed at Red's Landing and Riprap Landing walk-in areas from 12:00 p.m. to ½ hour after sunset during duck season, statewide hours during remainder of the season) (1)

Oakford State Conservation Area (4)

Pere Marquette State Park (hunting in designated area only) (1) (7)

Pyramid State Park (4) (7)

Pyramid State Park – East Conant Unit (4) (7)

Ray Norbut State Fish and Wildlife Area ([closed during second firearm deer season](#)) (7)

[Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit \(closed during second firearm deer season\)](#) (7)

Rend Lake State Fish and Wildlife Area Corps of Engineers' managed areas of Rend Lake

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Saline County State Fish and Wildlife Area (1) (7)

Sand Ridge State Forest (closed during second firearm deer season) (7)

Sielbeck Forest State Natural Area (1) (7)

Skinner Farm State Habitat Area (1) (7)

Ten Mile Creek State Fish and Wildlife Area ([areas designated as Waterfowl Rest Areas are closed to all access during the Canada Goose Season only](#)) (1) (7); Belle Rive Unit only (4)

Trail of Tears State Forest (1) (2)

Turkey Bluffs State Fish and Wildlife Area (1) (2)

Union County State [Fish and Wildlife Conservation](#) Area (Firing Line Unit only) (1) (2)

Weinberg-King State Park (7)

Weinberg-King State Park – Scripps Unit (7)

Weinberg-King State Park – Spunky Bottoms Unit (7)

Wildcat Hollow State Forest (1) (7)

Wise Ridge State Natural Area (1)

- i) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (6). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, if required. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

permit fee of \$5. All hunters must check out and report harvest. In the event that Department budget reductions or site staffing reductions make the operation of check stations or issuance of standby permits impractical, changes to check station procedures and standby permit issuance will be publicly announced and posted at the site.

Apple River Canyon State Park – Thompson and Salem Units (closed during the second firearm deer season) (7)

[Burning Star State Fish and Wildlife Area \(7\)](#)

Butterfield Trail State Recreation Area (closed during the second firearm deer season) (7)

Carlyle State Fish and Wildlife Area – East Fork Unit in Clinton County

Castle Rock State Park (closed during second firearm season) (6) (7)

Cedar Glen State Natural Area (closed during the second firearm deer season) (1) (7)

Clinton Lake State Recreation Area (North Fork Management Unit, north of the county road at the North Fork boat ramp) (7)

French Bluff State Natural Area (closed during the second firearm deer season) (1) (7)

Goose Lake Prairie State Natural Area/Heidecke Lake State Fish and Wildlife Area (closed during the second firearm deer season) (2) (6)

Hanover Bluff State Natural Area (closed during the second firearm deer season) (7)

Hidden Springs State Forest (closed during second firearm deer season) (1) (7)

Jim Edgar Panther Creek State Fish and Wildlife Area – Open Unit (closed during second firearm deer season) (1) (4) (7)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Jubilee College State Park (closed during the second firearm deer season; hunting is prohibited in marked zones) (1, except tree stands must be erected the day before the muzzleloading season and must be removed by the day after the muzzleloading season) (2)

Lake Shelbyville Project Lands in Moultrie County (closed during the second firearm deer season; antlerless only; for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) (1)

Lake Shelbyville Project Lands in Shelby County (closed during the second firearm deer season; antlerless only; for Corps of Engineers managed lands not managed by IDNR, contact Corps of Engineers, Lake Shelbyville office for specific deer hunting policy) (1)

Lake Shelbyville State Fish and Wildlife Area (closed during the second firearm deer season; antlerless-only; must have valid permit for Lake Shelbyville Project Lands – Moultrie County) (7)

Marseilles State Fish and Wildlife Area (closed during second firearm deer season) (all tree stands must be removed from this area no later than sunset of the last day of archery deer season; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may enter the site only from designated parking lots) (1) (2) (6)

Rall Woods State Natural Area (closed during the second firearm deer season) (7)

~~Sahara Woods State Fish and Wildlife Area (1) (7)~~

Sangchris Lake State Park (open to muzzleloading rifle hunting during the second firearm deer season only; antlerless deer only; hunting will begin the first day at legal shooting time and at 10:30 a.m. on all other days of the season) (1) (2)

Sangamon County State Conservation Area (closed during second firearm deer season) (1)

Sanganois State Fish and Wildlife Area (Ash Swale Waterfowl Rest Area will be

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

closed to deer hunting during the waterfowl hunting seasons) (1) (7)

Spoon River State Forest (closed during second firearm deer season) (1) (7)

Starved Rock State Park (closed during the second firearm deer season; permit includes Starved Rock State Park, Matthiessen State Park, Margery C. Carlson State Natural Area, Mitchell's Grove State Natural Area and Sandy Ford State Natural Area; hunt is open in Zone A; all initial permits will be issued as antlerless only; hunters must take an antlerless deer on the site during the current year firearm or muzzleloader season before they will be issued an either-sex standby permit; hunters must check antlerless deer with site staff for verification to participate in the bonus buck program; standby hunters may purchase up to 2 one-day site-specific antlerless-only permits each day) (2) (6)

Tapley Woods State Natural Area (closed during the second firearm deer season) (7)

Wards Grove State Nature Preserve (closed during the second firearm deer season; antlerless deer only) (7)

Winston Tunnel State Natural Area (closed during the second firearm deer season) (7)

Witkowsky State Wildlife Area (closed during the second firearm deer season) (7)

j) Violations of site specific regulations are petty offenses (see 520 ILCS 5/2.20).

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Injurious Species
- 2) Code Citation: 17 Ill. Adm. Code 805
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
805.20	Amendment
805.30	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-125, 1-150, 5-10, 10-100 and 20-90, and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 1-150, 5-10, 10-100, 20-90, and 20-100], and Sections 1.4, 1.10, 2.2, 2.3 and 3.22 of the Wildlife Code [520 ILCS 5/1.4, 1.10, 2.2, 2.3 and 3.22]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to regulate the importation, possession, transportation and stocking of species that have been identified as injurious based upon the potential threat to indigenous wildlife, aquatic life, or the habitat. Seven species were added to the injurious species list. Asian carp are listed as injurious, therefore, these amendments clarify that permits are required prior to authorization for live haul.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Craig Colbrook, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/557-0659

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 805
INJURIOUS SPECIES

Section	
805.10	Definition
805.20	Listing of Injurious Species
805.30	Unlawful Acts
805.40	Permits
805.50	Penalties

AUTHORITY: Implementing and authorized by Sections 1-125, 1-150, 5-10, 10-100 and 20-90, and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 1-150, 5-10, 10-100, 20-90, and 20-100], and Sections 1.4, 1.10, 2.2, 2.3 and 3.22 of the Wildlife Code [520 ILCS 5/1.4, 1.10, 2.2, 2.3 and 3.22].

SOURCE: Adopted by emergency rulemaking at 26 Ill. Reg. 14878, effective September 26, 2002, for a maximum of 150 days; adopted at 27 Ill. Reg. 3369, effective February 14, 2003; amended at 29 Ill. Reg. 2280, effective May 1, 2005; amended at 37 Ill. Reg. 14976, effective August 30, 2013; amended at 39 Ill. Reg. _____, effective _____.

Section 805.20 Listing of Injurious Species

- a) Wild Mammals
- *Flying fox or fruit bat of the genus *Pteropus*
 - *Mongoose or meerkat of the genera *Atilax*, *Cynictis*, *Helogale*, *Heroestes*
 - **Ichneumia*, *Munzos*, and *Suricata*
 - *Any species of European rabbit of the genus *Oryctolagus*
 - *Any species of Indian wild dog, red dog, or dhole of the genus *Cuon*

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

*Any species of multimammate rat or mouse of the genus *Mastomys*

*Raccoon dog, *Nyctereutes procyonoides*

b) Wild Birds

*Pink starling or rosy pastor, *Sturnus roseus*

*Dioch, *Quelea quelea*, including its black-fronted, red-billed or Sudan subspecies

*Java sparrow, *Padda oryzivora*

*Red-whiskered bul-bul, *Pycnonotus jocosus*

*Eggs of wild nongame birds

c) Fish, Mollusks and [Aquatic Invertebrates](#)~~Crustaceans~~

*Snakeheads (including, but not limited to, all fishes of the genera *Channa* and *Parachanna*, and others of the family *Channidae*)

*Fish or viable eggs of the walking catfish, *Clariidae* family

*Mollusks, veligers or viable eggs of zebra mussels, genus *Dreissena*

*Crustaceans or viable eggs of mitten crabs, genus *Eriocheir*

River ruffe (*Gymnocephalus cernuus*)

*Silver carp (*Hypophthalmichthys molitrix*)

*Bighead carp (*Hypophthalmichthys nobilis*)

*Black carp (*Mylopharyngodon piceus*)

Gobies (round, tubenose) (*Neogobius melanostomus*, *Proterorhinus marmoratus*)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Rusty crayfish (*Orconectes rusticus*). Possession of living rusty crayfish is prohibited for all except the holders of an approved aquaculture permit with a letter of authorization to import/possess this species.

Rudd (*Scardinius erythrophthalmus*)

Stone moroko (*Pseudorasbora parva*)

Zander (*Sander lucioperca*)

Wels catfish (*Silurus glanis*)

Killer Shrimp (*Dikerogammarus villosus*)

Yabby (*Cherax destructor*)

Golden mussel (*Limnoperna fortune*)

d) Plants

Mosquito fern (*Azolla pinnata*)

Flowering rush (*Butomus umbellatus*)

Caulerpa or Mediterranean killer algae (*Caulerpa taxifolia*)

Brazilian elodea, Brazilian waterweed, Anacharis or Egeria (*Egeria densa*)

Anchored water hyacinth (*Eichhornia azurea*)

Hydrilla or water thyme (*Hydrilla verticillata*)

European frogbit or common frogbit (*Hydrocharis morsus-ranae*)

Miramar weed, Indiana swampweed or hygro (*Hygrophilia polysperma*)

Chinese waterspinach or swamp morning-glory (*Ipomoea aquatic*)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Yellow flag iris or tall yellow iris (*Iris pseudacorus*)

Oxygen weed or African elodea (*Lagarosiphon major*)

Asian marshweed or ambulia (*Limnophila sessiliflora*)

Monochoria, arrowleaf, or false pickerelweed (*Monochoria hastata*)

Heartshape or false pickerelweed (*Monochoria vaginalis*)

Parrot feather or parrot feather watermilfoil (*Myriophyllum aquaticum*)

Eurasian watermilfoil (*Myriophyllum spicatum*)

Brittle naiad or brittle water nymph (*Najas minor*)

Yellow floating heart (*Nymphoides peltata*)

Duck lettuce (*Ottelia alismoides*)

Curlyleaf pondweed (*Potamogeton crispus*)

Arrowhead (*Sagittaria sagittifolia*)

Giant salvinia (*Salvinia auriculata*)

Giant salvinia (*Salvinia biloba*)

Giant salvinia (*Salvinia herzogii*)

Giant salvinia (*Salvinia molesta*)

Exotic bur-reed (*Sparganium erectum*)

Water chestnut (*Trapa natans*)

[Water soldier \(*Stratiotes aloides*\)](#)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

e) Amphibians

None

f) Reptiles

*Specimens or eggs of the brown tree snake, *Boiga irregularis*

NOTE: Species noted by an asterisk (*) are federally listed.

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

Section 805.30 Unlawful Acts

a) Injurious species shall not be possessed, propagated, bought, sold, bartered or offered to be bought, sold, bartered, transported, traded, transferred or loaned to any other person or institution unless a permit is first obtained from the Department of Natural Resources in accordance with Section 805.40 of this Part, except persons engaged in interstate transport for lawful commercial purposes who do not buy, sell, barter, trade, transfer, loan or offer to do so in Illinois may transport injurious species across Illinois without an injurious species permit from the Department.

1) Under no circumstances shall an interstate transporter:

A) transfer any injurious species from one container to another; nor

B) exchange or discharge from a container containing injurious species without first obtaining written permission from the Department:

i) water;

ii) bedding;

iii) soluble material; or

iv) insoluble material.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 2) The Department shall grant permission under subsection (a)(1)(B) only if:
- A) it approves of the final disposition of the water, bedding, or material; and
 - B) the transporter satisfies the Department that there is no possibility of release into the environment.
- b) Injurious species shall not be released. Release of injurious species is a violation of Section 10-100 and/or Section 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-100 or 20-90] or Section 2.2 of the Wildlife Code [520 ILCS 5/2.2].
- c) Possession of federally listed injurious species shall also be in accordance with the provisions of the Lacey Act (18 USC 42) and 50 CFR 16 (no incorporation in this Part includes later amendments or editions).
- d) Live haul of commercially wild-caught Asian carp shall not be allowed unless a Restricted Species Transportation Permit is obtained (as outlined in 17 Ill. Adm. Code 830.12 and 870.6). Restricted Species Transportation Permits are available by writing to:

Aquaculture Specialist
Illinois Department of Natural Resources
Aquatic Nuisance Species and Aquaculture Program
One Natural Resources Way
Springfield IL 62702-1271

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Aquaculture, Transportation, Stocking, Importation and/or Possession of Aquatic Life
- 2) Code Citation: 17 Ill. Adm. Code 870
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
870.10	Amendment
870.20	Amendment
870.30	Amendment
870.40	Amendment
870.50	Amendment
870.60	Amendment
870.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90] and the Herptile Code [510 ILCS 68]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify when the Aquatic Life Approved Species List applies; removes reptiles and amphibians from the Aquaculture Code (now regulated by Herptile Code); updates contact information and aquaculture application process; changes renewal date to March 31 to be consistent with hunting and fishing license renewals; clarifies that possession or transportation of *Tilapia spp.* requires a Letter of Authorization or Import permit; clarifies over-the-counter sales of Triploid Grass Carp.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Craig Colbrook, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/557-0659
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Commercial fishers, Aquatic life dealers and Aquaculturists
 - B) Reporting, bookkeeping or other procedures required for compliance: Restricted Species Transportation permit requirements
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 870
AQUACULTURE, TRANSPORTATION, STOCKING, IMPORTATION
AND/OR POSSESSION OF AQUATIC LIFE

Section

870.10	Aquatic Life Approved Species
870.20	Aquaculture Permit Application Requirements
870.30	Aquaculture Facility Requirements
870.40	Aquaculture Operational Rules
870.50	Unlawful Acts
870.60	Restricted Species Transportation Permit Procedures
870.70	Penalties
870.80	Exceptions

AUTHORITY: Implementing and authorized by Sections 1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/1-20, 1-105, 1-125, 1-135, 1-140, 1-145 and 20-90] and the Herptile Code [510 ILCS 68].

SOURCE: Adopted July 12, 1974; effective July 24, 1974; codified at 5 Ill. Reg. 10649, amended at 7 Ill. Reg. 14947, effective November 1, 1983; amended at 10 Ill. Reg. 963, effective January 7, 1986; Part repealed and new Part adopted at 13 Ill. Reg. 10503, effective June 20, 1989; amended at 14 Ill. Reg. 11190, effective June 29, 1990; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 27 Ill. Reg. 7741, effective April 21, 2003; amended at 39 Ill. Reg. _____, effective _____.

Section 870.10 Aquatic Life Approved Species

- a) For the purposes of [transportation, stocking, importation and/or possession of aquatic life within or into Illinois and for the purposes of](#) Section 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/20-90], the Aquatic Life Approved Species List is established. The following aquatic life categories will be considered approved for aquaculture, transportation, stocking, importation and/or possession in the State of Illinois [under possession of an aquaculture permit](#).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

aquatic life dealer license or minnow dealer license, when appropriate (amphibian and reptile culture, transportation, importation and/or possession are governed by the Herptile-Herps Act [510 ILCS 68] and are not subject to this Part).

- ~~1)~~ ~~Amphibians~~
 - ~~2)~~ ~~Reptiles~~
 - ~~13)~~ ~~Crustaceans~~
 - ~~24)~~ ~~Mollusks~~
 - ~~35)~~ ~~Gastropods~~
 - ~~46)~~ ~~Fish~~
 - ~~57)~~ ~~Plants~~
- b) Any species not on the Aquatic Life Approved Species List as described in Section 870.10(a) may not be imported or possessed alive without a letter of authorization to import/possess such species, except saltwater species commonly used as seafood which will not survive in freshwater, such as lobsters, clams, mussels, and oysters.
- c) Any species listed as endangered or threatened pursuant to Section 8 of the Illinois Endangered Species Protection Act [520 ILCS 10/8] will be governed by Section 3 of the Illinois Endangered Species Protection Act [520 ILCS 10/3]. As aquatic species are listed endangered or threatened, permit holders will be notified.
- d) Copies of the Aquatic Life Approved Species List may be obtained free of charge by writing to:

~~Aquaculture Specialist~~~~Coordinator~~
~~Illinois Department of Natural Resources~~~~Jake Wolf Memorial Fish~~
~~Hatchery~~
~~Aquatic Nuisance Species and Aquaculture Program~~
~~One Natural Resources Way~~~~25410 Fish Hatchery Road~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62702-1271~~Topoka IL 61567~~

- e) An Aquaculture Advisory Committee shall be formed to review requests to import/possess aquatic species not included on the Aquatic Life Approved Species List, and to recommend under what conditions species may be imported/possessed to the Chief of the Division of Fisheries. The Committee shall be composed of representatives of:
- 1) The Chiefs of the following divisions of the Department of Natural Resources:
 - A) Fisheries (Chair);
 - B) Wildlife;
 - C) ~~Natural~~National Heritage;
 - D) Law Enforcement.
 - 2) Should they agree to participate:
 - A) ~~The President of the Illinois Aquaculture Industry Association;~~B) The Chief of the Illinois Natural History Survey;
 - B) The Aquaculture Coordinator, Department of Agriculture;
 - C) The Director, Southern Illinois University Fisheries, Aquaculture and Aquatic SciencesResearch Laboratory;
 - D) The Chief, Division of Food, Drugs and Dairies, Department of Public Health.
- f) The Chief of the Division of Fisheries shall consider the recommendations of the Aquaculture Advisory Committee prior to rendering final decisions regarding requests to import/possess species not included on the Aquatic Life Approved Species List. The Aquaculture Advisory Committee's recommendations and the decisions of the Chief of the Division of Fisheries shall be based upon the potential detriment to the natural fishery resource.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

Section 870.20 Aquaculture Permit Application Requirements

- a) Persons wishing to obtain an aquaculture permit must obtain an aquaculture permit application from: Aquaculture Specialist, Department of Natural Resources, Aquatic Nuisance Species and Aquaculture Program, One Natural Resources Way, Aquaculture Permit, P.O. Box 19458, Springfield IL 62702-1271. Submit 62794-9458, and submit the completed application, along with the \$50 fee, to the same address. The Department shall only issue a permit to applicants meeting the requirements of the Act and this Part. A permit shall be purchased online or from an approved Point of Sale location. Illinois DNR license vendors can be found at: www.dnr.illinois.gov/LPR/Pages/LicensePermitVendors.aspx. Upon expiration of the aquaculture~~their first annual~~ permit, persons wishing to obtain a renewal ~~of their permit shall~~should submit an annual report to the Aquaculture Specialist. Approval to purchase a renewal permit will be granted following Department review of the submitted annual report~~renewal forms provided by the Department to the address above.~~
- b) Applicants must complete all portions of the permit application form. Incomplete applications will be rejected~~and fees returned.~~ ~~Each applicant must submit a check or money order for each application.~~
- c) Applicants wishing to import/possess aquatic life ~~that~~which appears on the Aquatic Life Approved Species List must submit their aquaculture permit application at least 4 weeks prior to ~~the~~such importation/possession.
- d) Applicants wishing to import/possess aquatic life not on the Aquatic Life Approved Species List must submit their aquaculture permit application at least 8 weeks prior to the desired date of ~~the~~such importation/possession.
- e) Importation/possession of aquatic life may not commence until the operator is in possession of an issued aquaculture permit.

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

Section 870.30 Aquaculture Facility Requirements

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- a) Permit applicants wishing to import/possess aquatic life that appears on the Aquatic Life Approved Species List may apply for a permit prior to completion of their aquaculture facilities.
- b) Permit applicants wishing to import/possess aquatic life not on the Aquatic Life Approved Species List must have an aquaculture facilities plan completed and approved by the Department prior to issuance of the aquaculture permit. ~~An Such~~ an issued permit is conditional, pending final inspection and subsequent approval by the Aquaculture Specialist. Approval shall be based upon the following and occur within 8 weeks after purchase of permit:
 - 1) Facilities must be self-contained and not capable of overflowing into other waters of the State and cannot be located on or in a 100 year flood plain, as defined by the Division of Water Resources of the Illinois Department of Natural Resources (17 Ill. Adm. Code 3706), unless ~~that such~~ location receives approval by the Department of Natural Resources, based upon the facility's susceptibility to flooding.
 - 2) Self-contained facilities needing drainage or discharges of water shall dispose of water:
 - A) into a municipal water treatment facility; or
 - B) into an on-site waste treatment facility incorporating sand filtration and chlorination; or
 - C) as approved by the Department of Natural Resources, pursuant to Section 5-5 of the Fish and Aquatic Life Code [515 ILCS 5/5-5].
- c) The Department may impose additional conditions in approving a permit, specific to the facility, that are deemed necessary or appropriate for the protection of the State's aquatic resources.

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

Section 870.40 Aquaculture Operational Rules

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- a) Permit holders must request a letter of authorization from the Aquaculture ~~Specialist~~~~Coordinator~~ for each additional species not on the Aquatic Life Approved Species List that they wish to import or possess. All such letters shall have a beginning and end date. A minimum of 8 weeks shall be granted to review and re-issue permits. Permit holders are responsible for making requests for a letter of authorization to the Aquaculture Specialist, and that is not listed on their original permit application (See Section 870.10(e)).
- b) A letter of authorization from the Department shall be required for each aquatic life species that does not appear on the Aquatic Life Approved Species List. The ~~letters~~~~letter~~ shall be attached to the permit and shall be available for inspection upon request (see Section 870.10(e)).
- c) In the event that an aquaculturist possessing aquatic life not on the Aquatic Life Approved Species List goes out of business or possesses the aquatic life contrary to the Fish and Aquatic Life Code, the Department shall determine disposition of such aquatic life as deemed necessary, based upon the potential detriment to the aquatic resource.
- d) ~~Letter and permit~~~~Permit holders or their heirs or assigns possessing aquatic life not on the Aquatic Life Approved Species List,~~ who cease operation for whatever reason, are required to notify the Department in writing within 30 days after their cessation of business. Letters and permits are not transferrable to other persons or businesses.
- e) When the ~~letter or~~ permit holder who possesses aquatic life not on the Aquatic Life Approved Species List ceases doing business voluntarily or involuntarily, his or her permit expires at the cessation of business. Heirs, assigns or new owners must apply for an aquaculture permit.
- f) Records shall be maintained as required in Sections 20-90 and 20-125 of the Fish and Aquatic Life Code [515 ILCS 5/20-90 and 20-125].
- g) All aquaculture permit holders shall submit to the Department, on forms provided by the Department, by ~~March~~~~January~~ 31 of each year, an annual report providing information on the previous calendar year's activity for aquatic life possessed, bought, sold or shipped. The information required on this annual report shall include:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) name, address and license number of buyer;
 - 2) name, address and license number of seller;
 - 3) transaction date;
 - 4) species;
 - 5) number of pounds;
 - 6) origin;
 - 7) price paid per pound (optional); and
 - 8) any other information (e.g., receipt number, carrier type, etc.) as required by the Department on the form.
- h) Failure of the aquaculture permit holder to submit the required reports in the manner and time frame specified shall be grounds for refusal by the Department to issue to those individuals a ~~permit~~license for the following year until all required reports are received and approved by the Department.

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

Section 870.50 Unlawful Acts

- a) It is unlawful to release (or allow escape of) any aquatic life into the waters of this State without first securing permission of the Department to do so, except that the owners of a body of water or their agents may release aquatic life on the Aquatic Life Approved Species List into waters that are wholly on their property. All aquatic life may be immediately returned unharmed to~~released into~~ waters from which they were taken (Section 10-100 of the Fish and Aquatic Life Code). ~~Permission will be based upon the potential detriment to the aquatic resource.~~
- b) It is unlawful for any persons to transport, ship, or convey within the State, any live grass carp or white amur (*Ctenopharyngodon idella*), bighead carp (*Hypophthalmichthys nobilis*), silver carp (*Hypophthalmichthys*

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

~~Hypophthalmichthys molitrix~~), or hybrid of any of these species, Tilapia spp., and other species not on the Approved Aquatic Life Species List~~grass carp~~, unless that person ~~possesses~~has in his possession a "Restricted Species Transportation Permit" issued by the Illinois Department of Natural Resources.

- c) It is unlawful to transport, ship, or convey live trout, salmon, or char into the State unless a salmonid import permit has been issued to the source hatchery, as required by Section 10-105 of the Fish and Aquatic Life Code [515 ILCS 5/10-105]. A copy of the salmonid import permit must accompany each shipment. A salmonid import permit will be issued only if the source hatchery has been inspected within the last 12 months and found free of, but not limited to, the following disease agents: VHS – Viral Hemorrhagic Septicemia Virus; IHN – Infectious Hematopoietic Necrosis Virus; CS – Ceratomyxosis (*Ceratomyxa shasta*); PKD – Proliferative Kidney Disease agent; and/or any other disease agents that are not known to be present in the Great Lakes Basin.
- 1) A salmonid import permit may be issued for a period of up to 6 months following the inspection of the source hatchery. The salmonid import permit will be reissued if the owner/operator of the source hatchery certifies that there has been no change in the disease status of the source hatchery in the 6 month period following the annual inspection. A bill of sale, listing quantity, species, and hatchery of origin shall be provided to and retained by the final recipient of the fish, until the fish are disposed of.
 - 2) The Department recognizes persons inspecting hatcheries using the methods of diagnosis found in "Suggested Procedures for the Detection and Identification of Certain Finfish and Shellfish Pathogens" 4th ed., Version 1 (1994), published by the Fish Health Section of the American Fisheries Society or the "Manual of Compliance to the Fish Health Protection Regulations of the Department of Fisheries and Oceans, Canada (1988) (no further amendments or editions are included), as competent in the diagnosis of fish diseases, unless a clearcut conflict of interest exists (such as the inspector being related to the hatchery owner by blood, adoption, marriage or economic interest).
- d) No live aquatic life not on the Aquatic Life Approved Species List produced at the facilities operated or owned by an aquaculture permit holder may be removed from

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

the site unless they are being transferred to another permit holder who has permission to possess them, or to a fish market as food, or to an aquarium shop.

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

Section 870.60 Restricted Species Transportation Permit Procedures

- a) A Restricted Species Transportation Permit is required for live grass carp, bighead carp, silver carp, or hybrid of any of these species, Tilapia spp., and other species not on the Approved Aquatic Life Species List, including commercial fishers that are holding Asian carp in a crib or transporting directly to a rendering facility for slaughter (with restrictions (see Section 870.50(b)))~~grass carp~~. Restricted Species Transportation Permits are available from the Aquaculture Specialist, Illinois Department of Natural Resources~~Division of Fisheries~~, Aquatic Nuisance Species and Aquaculture Program, One Natural Resources Way, Springfield IL 62702-1271. Applications must be received by the Aquatic Nuisance Species and Aquaculture Program~~Division of Fisheries~~ at least two weeks prior to the proposed shipment date. A "Restricted Species Transportation Permit" shall be required for each shipment, except that extended permits covering regular periodic deliveries may be granted by the Department, pursuant to Section 10-105 of the Fish and Aquatic Life Code. Triploid grass carp under 4 inches in length cannot be shipped, transported or stocked at any time and may be possessed only by authorized aquaculture permit holders. A "Restricted Species Transportation Permit" is valid only:
- 1) on the dates listed on the permit; and
 - 2) for names and addresses listed for delivery on the application/permit.
- b) Lake or pond owners are exempt from the "Restricted Species Transportation Permit" requirements while transporting triploid grass carp purchased and obtained in Illinois for stocking in their wholly owned waters, as long as~~if~~ they have a ~~signed~~ receipt from an aquaculture permit holder or licensed non-resident fish dealer. ~~The receipt must contain stating that the grass carp have a triploid number of chromosomes, and the lake or pond owner's name and address is listed on the aquaculturist's "Restricted Species Transportation Permit".~~ A "Restricted Transportation Permit" ~~is valid only:~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Accession number of USFWS certifying triploid status of grass carp. ~~on the dates listed on the permit; and~~
 - 2) Total number of fish sold (total amount in any one sale shall not exceed 20 individuals) ~~for names and addresses listed for delivery on such application/permit.~~
 - 3) Name, address and driver's or fishing license number of buyer and address of wholly owned waterbody where stocking will occur. Signature of buyer is confirmation that the above information is true and accurate and the only place where fish can legally be stocked. Township/range, latitude and longitude, or equivalent is acceptable to identify the pond location.
 - 4) Name, address and aquaculture license number of seller. Signature from seller is required to confirm information such as buyers license numbers and fish count and certification information.
 - 5) Transaction date and time (the exemption from a "Restricted Species Transportation Permit" is only for 24 hours after purchase. No more than 20 triploid grass carp may be carried in any vehicle/fish hauler at any one time under this exemption).
 - 6) The transaction documents must clearly state:
 - A) that the transaction involves the sale of triploid grass carp;
 - B) the number of fish sold;
 - C) where the fish are to be transported; and
 - D) the average length of the fish in each batch of fish sold.
- c) For the purposes of this Section, a shipment is defined as one load of fish; for example, 3 truckloads of fish being transported in convoy would be 3 shipments.
- d) Any~~Except for persons exempt under Section 870.60(b),~~ any person hauling any live triploid grass carp must subject the shipment to examination by the Department of Natural Resources. Except for persons exempt under subsection

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(b), batches~~For a batch~~ of fish subject to testing and containing more than 56 individuals will have, 56 fish ~~will be~~ tested; for a batch containing fewer than 56 individuals, 100% will be tested.

- e) Commercial fishermen shall be allowed to harvest from the wild and transport to a State-licensed wholesale aquatic life dealer bighead carp, silver carp, grass carp and black carp, providing both of the following criteria are met:
- 1) the fish are dead. Transportation of dead fish is allowed if:
 - A) The fish are packed on ice only while directly en route to a fish market or processor (addition of water to iced and packed fish is not permitted);
 - B) the packed fish are dry (in box, barrel, crate, etc.) while directly en route to a fish market or processor;
 - C) the isthmus has been severed;
 - D) the gills have been removed; or
 - E) the fish have been eviscerated.
 - 2) The fish are transported in an aerated live tank or any other manner intended to maintain the fish alive after first obtaining a Restricted Species Transportation Permit.
- f) With a Department approved Restricted Species Transportation Permit, commercial fishermen are allowed to:
- 1) transport live grass carp to a State-licensed slaughter facility or equivalent outside the State of Illinois, providing this facility is not located in the counties of Will, Cook or Lake and that the fish are processed or stored on ice immediately upon arrival to the facility.
 - 2) transport live bighead carp, silver carp, grass carp and black carp directly to a crib (net pen) or State-licensed slaughter facility, provided that the crib or facility is within 15 miles or as otherwise designated on the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Restricted Species Transportation Permit, and that the fish are processed or stored on ice immediately upon arrival at the slaughter facility.

- g) Asian carp may be held live in a crib (net pen) provided that:
- 1) they are cribbed in the waters where caught (within 15 miles) and not transported upstream of a lock and dam or other barrier;
 - 2) they are removed within 72 hours;
 - 3) they are killed by one of the methods specified in subsection (e)(1)(C), (D) or (E) immediately upon removal from the crib; and
 - 4) all other regulations pertaining to commercial fishing and commercial fishing devices are followed.

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

Section 870.80 Exceptions

- a) Except as otherwise provided in subsection (b), this Part does not apply to:
- 1) aquarists/hobbyists (e.g., keepers of any non-injurious aquatic life, including carp (koi) and goldfish (not including amphibians or reptiles), within home aquaria, private water gardens and aquascapes), as long as the aquatic life are not offered for sale, trade or barter and the aquarist/hobbyist activity does not violate other aquatic life regulations (e.g., 17 Ill. Adm. Code 875);
 - 2) the aquarium industry (those businesses regulated and licensed by the Department of Agriculture under the Animal Welfare Act [225 ILCS 605]); or
 - 3) State agencies or universities.
- b) Exceptions from Subsection (a)
- 1) The exemption in subsection (a) does not apply to any injurious species, as

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

described in 17 Ill. Adm. Code 805.

- 2) The exemption in subsection (a) does not apply to any VHS virus susceptible species or any wild caught aquatic life coming from affected regions without Fish Health Certificates (FHC) and Department approval.
- 3) The entities cited in subsection (a) are exempt as long as the excepted activity operates in a manner that will prevent escape of aquatic life into the waters standing on or flowing over the soil of the State of Illinois.

~~Except in the case of injurious species, as described in 17 Ill. Adm. Code 805, this Part does not apply to the aquarium industry (those businesses regulated by the Department of Agriculture under the Animal Welfare Act [225 ILCS 605]) or State agencies or universities, so long as they are operating in a manner that will prevent escapement into the waters standing on or flowing over the soil of the State of Illinois.~~

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Viral Hemorrhagic Septicemia (VHS)
- 2) Code Citation: 17 Ill. Adm. Code 875
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
875.20	Amendment
875.30	Amendment
875.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-20, 1-20.5, 1-75, 1-80, 1-85, 1-105, 1-125, 1-135, 1-140, 1-145, 1-150, 1-185, 1-190, 1-210, 5-5, 5-10, 10-100, 10-105, 15-5, 15-10, 20-35, 20-70, 20-90, 20-100, 20-105, 20-125 and 25-20 of the Fish and Aquatic Life Code [515 ILCS 5/1-20, 1-20.5, 1-75, 1-80, 1-85, 1-105, 1-125, 1-135, 1-140, 1-145, 1-150, 1-185, 1-190, 1-210, 5-5, 5-10, 10-100, 10-105, 15-5, 15-10, 20-35, 20-70, 20-90, 20-100, 20-105, 20-125 and 25-20]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to update outdated information and to provide an example of when a permit is appropriate to import *Tilapia spp.*
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Craig Colbrook, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/557-0659

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFEPART 875
VIRAL HEMORRHAGIC SEPTICEMIA (VHS)

Section

875.10	Definitions
875.20	Susceptible Species
875.30	Permits
875.40	Fish Health Inspection Reports
875.50	Unlawful Acts/Penalties

AUTHORITY: Implementing and authorized by Sections 1-20, 1-20.5, 1-75, 1-80, 1-85, 1-105, 1-125, 1-135, 1-140, 1-145, 1-150, 1-185, 1-190, 1-210, 5-5, 5-10, 10-100, 10-105, 15-5, 15-10, 20-35, 20-70, 20-90, 20-100, 20-105, 20-125 and 25-20 of the Fish and Aquatic Life Code [515 ILCS 5/1-20, 1-20.5, 1-75, 1-80, 1-85, 1-105, 1-125, 1-135, 1-140, 1-145, 1-150, 1-185, 1-190, 1-210, 5-5, 5-10, 10-100, 10-105, 15-5, 15-10, 20-35, 20-70, 20-90, 20-100, 20-105, 20-125 and 25-20].

SOURCE: Emergency rule adopted at 32 Ill. Reg. 10636, effective June 30, 2008, for a maximum of 150 days; emergency expired November 26, 2008; adopted at 32 Ill. Reg. 19765, effective December 3, 2008; amended at 39 Ill. Reg. _____, effective _____.

Section 875.20 Susceptible Species

- a) For purposes of this Part, susceptible species are:
- 1) those species designated by USDA-APHIS in the Federal Order update of [September 9, 2008](#)~~April 2, 2008~~;
 - 2) Additional species known to be carriers of [VHS virus \(VHSV\)](#)~~VHSv~~ that present significant risk to the aquatic resources of Illinois;
 - 3) hybrids (offspring) of listed species for which both parent species are listed; and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 4) all species that originate from affected regions.
- b) The current list of susceptible species from the APHIS Federal Order (<http://www.aphis.usda.gov/focusonfish/species-affected.php>) is as follows:

Black crappie	Pomoxis nigromaculatus
Bluegill	Lepomis macrochirus
Bluntnose minnow	Pimephales notatus
Brown bullhead	Ictalurus nebulosus
Brown trout	Salmo trutta
Burbot	Lota lota
Channel catfish	Ictalurus punctatus
Chinook salmon	Oncorhynchus tshawytscha
Emerald shiner	Notropis atherinoides
Freshwater drum	Aplodinotus grunniens
Gizzard shad	Dorosoma cepedianum
Lake whitefish	Coregonus clupeaformis
Largemouth bass	Micropterus salmoides
Muskellunge	Esox masquinongy
Shorthead redhorse	Moxostoma macrolepidotum
Northern pike Pike	Esox lucius
Pumpkinseed	Lepomis gibbosus
Rainbow trout	Onchorhynchus mykiss
Rock bass	Ambloplites rupestris
Round goby	Neogobius melanostomus
Shorthead redhorse	Moxostoma macrolepidotum
Silver redhorse	Moxostoma anisurum
Smallmouth bass	Micropterus dolomieu
Spottail shiner	Notropis hudsonius
Trout-Perch	Percopsis omiscomaycus
Walleye	Sander vitreus
White bass	Morone chrysops
White perch	Morone americana
Yellow perch	Perca flavescens

- c) Additional species known to be carriers of VHSV that present significant risk to the aquatic resources of Illinois include:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Atlantic herring	Clupea harengus
Pacific herring	Clupea pallasii
Sea lamprey	Petromyzon marinus

- d) Examples:
- 1) Hybrid bluegill (bluegill X green sunfish) are not considered susceptible species as only one parent species is listed.
 - 2) Tiger muskellunge (muskellunge X northern pike) are considered susceptible species because both parent species are listed.
 - 3) All wild-trapped minnows are subject to certification standards if they originate from affected regions.
 - 4) Farm-raised minnows from affected regions (defined in Section 875.10) are subject to testing.
 - 5) Farm-raised minnows from Arkansas or Missouri are not subject to testing.
 - 6) [Tilapia spp. and other non-approved species coming from an affected region \(also need a Restricted Species Transportation Permit; see 17 Ill. Adm. Code 870\).](#)
- e) The official list of VHS-susceptible species as identified by the Department will be available from the Department and posted on the Department's website (<http://dnr.state.il.us>). Updates to the list of susceptible fish species will be made as necessary, and notice shall be given by issuing a press release, by publication in the official State newspaper, and by such other means as the Department determines are reasonably likely to inform the public, including notification on the Department website.

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

Section 875.30 Permits

- a) Application Requirements

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Permits to import live VHS-susceptible species may be issued by the Department of Natural Resources in accordance with Sections 10-100 and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/10-100, 20-100] for persons or businesses holding an Aquaculture Permit, Aquatic Life Dealer's License or Minnow Dealer's License, or research or educational institutions for scientific purposes, under the following provisions:

- 1) Applicants wishing to import live VHS-susceptible species must make application to the Department in writing, at the following address:

[Aquaculture Specialist](#)

Illinois Department of Natural Resources

[Aquatic Nuisance Species and Aquaculture Program](#)~~Region V~~
~~Office~~

~~VHS-Susceptible Species Permit~~

[One Natural Resources Way](#)~~11731 State Hwy. 37~~

[Springfield IL 62702-1271](#)~~Benton IL 62812~~

- 2) The Department may accept applications via fax or email if time permits and it is deemed to be in the best interest of the Department to do so.
- 3) Applications must contain the following minimum information:
 - A) name, address and telephone number of the applicant, including the business, research or educational institution;
 - B) the common and scientific name, size and total number (or pounds) of each VHS-susceptible species for which a permit is requested;
 - C) date of anticipated imports and number of shipments;
 - D) source of supply, including name, address and telephone number of the supplier; and
 - E) any other information requested by the Department (e.g., route of transportation, holding facility location, stocking locations, disposition of animals and federal permit, if required).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

b) Issuance Criteria

The Department shall consider the following in determining whether to issue a permit to import live VHS-susceptible species:

- 1) whether the request is for persons or businesses holding an Aquaculture Permit, Aquatic Life Dealer's License or Minnow Dealer's License, or research or educational institutions for scientific purposes;
- 2) whether the supplier of the fish stocks has an acceptable Fish Health Inspection Report on file with the Department;
- 3) for importation of minnows and species commonly used as bait, whether the supplier/importer has submitted an officially recognized management plan (Hazard Analysis and Critical Control Points (HACCP)/Best Management Practices (BMP)) to minimize transfer of exotic species and potential pathogens; and
- 4) whether the Department approves of the live market stocking locations based upon the potential risk to the fishery resource of the State.

c) Permit Conditions

Permits issued to import live VHS-susceptible species shall be subject to the following conditions:

- 1) All specimens approved under the permit must be imported only to the facilities, and at the location approved on the permit.
- 2) A person in possession of VHS-susceptible species, at all times during shipment and stocking, shall allow the Department, its agents or authorized employees to inspect the shipment and pertinent records to ensure compliance with this Part.
- 3) Permits issued under this Part shall be valid only for the time periods and under the provisions designated by the Department on the permit or accompanying letter.
- 4) All importers shall maintain records documenting disposition of all VHS-susceptible species for a minimum of 2 years from date of disposition.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 5) It is unlawful for any person to violate any condition stipulated on the permit or accompanying letter issued by the Department. Violation of any special condition will result in revocation of the permit.
 - 6) Shipments found in violation of this Part shall be subject to confiscation, quarantine and/or seizure. Disposition of specimens confiscated, placed under quarantine (including conditions under which they may be sold, traded, bartered or transferred), or seized under this Part shall be as designated by the Department.
- d) Permit Exceptions
The permits required by subsection (a) do not apply to:
- 1) Any licensed veterinarian, agent of a veterinary clinic, fish pathologist, or fish health inspector recognized by the American Fisheries Society providing diagnostic services subject to all of the following conditions:
 - A) the fish are in transit to an approved research or diagnostic laboratory authorized by the Department to work with VHS;
 - B) if entering from outside the State of Illinois, the fish must be accompanied by a valid Form VS 1-27 (Permit for Movement of Restricted Animals) issued by an APHIS area office; and
 - C) effluent and carcasses shall be considered medical waste and shall be disposed of at the receiving research or diagnostic facility according to all applicable EPA and State regulatory criteria.
 - 2) Any person moving fish to a slaughter facility subject to all of the following conditions:
 - A) the fish are for human consumption;
 - B) the fish are accompanied by a valid Form VS 1-27 (Permit for Movement of Restricted Animals) issued by an APHIS area office;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- C) the fish are being transported to a State-inspected slaughter facility that:
 - i) must discharge waste water to a municipal sewage system that includes waste water disinfection; or
 - ii) may discharge to either a non-discharging settling pond or a settling pond that disinfects according to all applicable EPA and State regulatory criteria;
 - D) offal, including carcasses, from the slaughter facility must be rendered or composted; and
 - E) VS 1-27 form only applies to fish entering the State of Illinois.
- 3) Persons involved in catch and release fishing activities in which VHS-susceptible fish will be released into the same water body where caught, except VHS-susceptible species used or intended to be used as bait.
- 4) Any shippers in interstate transport for lawful commercial purposes who do not buy, sell, barter, trade, transfer, loan or offer to do so in Illinois may transport live VHS-susceptible species across Illinois. Under no circumstances shall an interstate transporter:
- A) transfer any VHS-susceptible species from one container to another; or
 - B) exchange or discharge water or other materials from a container containing VHS-susceptible species without first obtaining written permission from the Department.
- 5) Persons having a Salmonid Import Permit issued in accordance with 17 Ill. Adm. Code 870, provided that:
- A) FHIR is issued in accordance with Section 875.40(a); and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- B) lot inspections (60 fish each) were tested according to the Standard Procedures for Aquatic Animal Health Inspections section of the BlueBook.
- 6) Any licensed commercial fisherman moving fish to a live market subject to all of the following conditions:
- A) the fish are for human consumption;
 - B) the facility is located on the same body of water where the fish are captured;
 - C) the fish are being transported to a State-inspected live market that:
 - i) must discharge waste water to a municipal sewage system that includes waste water disinfection; or
 - ii) may discharge to either a non-discharging settling pond or a settling pond that disinfects according to all applicable EPA and State regulatory criteria; or
 - iii) may discharge maintenance water into the same water body where the aquatic life originated according to all applicable EPA and State regulatory criteria;
 - D) offal, including carcasses, from the slaughter facility must be rendered or composted.
- 7) Any licensed Commercial Roe Harvester in possession of roe-bearing species that are captured and transported under a Commercial Roe Harvest Permit as defined in 17 Ill. Adm. Code 830.13, provided no susceptible species are commingled.

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

Section 875.50 Unlawful Acts/Penalties

- a) It shall be unlawful to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- 1) import VHS-susceptible species into the State of Illinois without a VHS-Susceptible Species Permit issued by the Department;
 - 2) stock VHS-susceptible species into waters of the State without securing permission from Department fish health authorities, or unless an FHIR is on file with the Department;
 - 3) remove live VHS-susceptible species from the waters where legally taken without first securing permission from Department fish health authorities, unless an FHIR is on file with the Department, or as provided in Section 875.30(d)(2), (6) and (7);
 - 4) remove natural water from waters of the State via bait bucket, livewell, baitwell, bilge, etc., or any other method without first securing permission from Department fish health authorities, unless an FHIR is on file with the Department, or as provided in Section 875.30(d)(2), (6) and (7);
 - 5) remove any watercraft, boat, boat trailer or other equipment from waters of the State without emptying and draining any bait bucket, livewell, baitwell, bilge, etc., or any other compartment capable of holding natural waters; and
 - 6) use wild-trapped fishes as bait within the State of Illinois, other than in the waters where they were legally taken.
- b) The Department may make exceptions to the unlawful acts listed in subsection (a) in writing for special circumstances (e.g., fishing special waters via contract, import or stocking facilities in process of gaining OIE facility-level certification, etc.) based upon the potential risk to the fishery resource of the State.
- c) Violation Classifications
- 1) Violation of subsection (a)(1) is a ~~Class B misdemeanor~~Petty Offense if the value of the aquatic life is \$300 or less (see 515 ILCS 5/10-105 and 20-35), and a Class 3 felony if the value of the aquatic life is in excess of a total of \$300 with intent to profit or for commercial purposes. Possession of aquatic life valued in excess of \$600 shall be considered prima facie

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

evidence of possession for profit or commercial purposes. (See 515 ILCS 5/5-25.)

- 2) Violation of subsection (a)(2) is a Class A misdemeanor (see 515 ILCS 5/10-100(b)) and violation of subsection (a)(3), (4), (5) or (6) is a Petty Offense (see 515 ILCS 5/1-150 and 20-35).

d) Revocation/Suspension

- 1) Any violations of the Fish and Aquatic Life Code or administrative rules of the Department may result in revocation of licenses and permits, as well as suspension of privileges for up to five years.
- 2) Violation of any conditions of a permit issued under this Part shall result in cancellation of the permit.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
101.100	Amendment
101.202	Amendment
101.300	Amendment
101.302	Amendment
101.304	Amendment
101.400	Amendment
101.1060	Amendment
101.APPENDIX A	
101.ILLUSTRATION I	Amendment
101. ILLUSTRATION J	Renumbered/New Section
101. ILLUSTRATION K	Renumbered
101. ILLUSTRATION L	Renumbered
101.APPENDIX E	
101. ILLUSTRATION A	Amendment
101. ILLUSTRATION B	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: The proposal will amend the Board's procedural rules for out-of-state attorneys, service of filings, and administrative citations filed pursuant to Section 23.1 of the Public Water Supply Operations Act [415 ILCS 45/23.1].
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: Illinois Supreme Court Rule 707 (eff. July 1, 2014) and PA 98-856 (eff. Aug. 4, 2014)
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the Illinois Register. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R15-20 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R15-20 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or by e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on a regulatory agenda.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARDPART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section	
101.100	Applicability
101.102	Severability
101.104	Repeals
101.106	Board Authority
101.108	Board Proceedings
101.110	Public Participation
101.111	Informal Recordings of Board Meetings
101.112	Bias and Conflict of Interest
101.114	Ex Parte Communications

SUBPART B: DEFINITIONS

Section	
101.200	Definitions Contained in the Act
101.202	Definitions for Board's Procedural Rules

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents from Another Proceeding
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section	
101.400	Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings
101.402	Intervention of Parties
101.403	Joinder of Parties
101.404	Agency as a Party in Interest
101.406	Consolidation of Claims
101.408	Severance of Claims

SUBPART E: MOTIONS

Section	
101.500	Filing of Motions and Responses
101.502	Motions Directed to the Hearing Officer
101.504	Contents of Motions and Responses
101.506	Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
101.508	Motions to Board Preliminary to Hearing
101.510	Motions to Cancel Hearing
101.512	Motions for Expedited Review
101.514	Motions to Stay Proceedings
101.516	Motions for Summary Judgment
101.518	Motions for Interlocutory Appeal from Hearing Officer Orders
101.520	Motions for Reconsideration
101.522	Motions for Extension of Time

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section	
101.600	Hearings
101.602	Notice of Board Hearings
101.604	Formal Board Transcript
101.606	Informal Recordings of the Proceedings
101.608	Default
101.610	Duties and Authority of the Hearing Officer
101.612	Schedule to Complete the Record
101.614	Production of Information
101.616	Discovery
101.618	Admissions

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

101.620	Interrogatories
101.622	Subpoenas and Depositions
101.624	Examination of Adverse, Hostile or Unwilling Witnesses
101.626	Information Produced at Hearing
101.628	Statements from Participants
101.630	Official Notice
101.632	Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section	
101.700	Oral Argument

SUBPART H: SANCTIONS

Section	
101.800	Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders
101.802	Abuse of Discovery Procedures

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section	
101.902	Motions for Reconsideration
101.904	Relief from Final Opinions and Orders
101.906	Judicial Review of Board Orders
101.908	Interlocutory Appeal

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section	
101.1000	Electronic Filing and E-Mail Service
101.1010	Electronic Filing Authorization and Signatures
101.1020	Filing Electronic Documents
101.1030	Form of Electronic Documents for Filing
101.1040	Filing Fees
101.1050	Documents Required in Paper or Excluded from Electronic Filing
101.1060	E-Mail Service

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

101.1070 Consenting to Receipt of E-Mail Service

101.APPENDIX A Captions

101.ILLUSTRATION A	Enforcement Case
101.ILLUSTRATION B	Citizen's Enforcement Case
101.ILLUSTRATION C	Variance
101.ILLUSTRATION D	Adjusted Standard Petition
101.ILLUSTRATION E	Joint Petition for an Adjusted Standard
101.ILLUSTRATION F	Permit Appeal
101.ILLUSTRATION G	Underground Storage Tank Appeal
101.ILLUSTRATION H	Pollution Control Facility Siting Appeal
101.ILLUSTRATION I	Administrative Citation Pursuant to Section 31.1 of the Act
101.ILLUSTRATION J	Administrative Citation Pursuant to Section 23.1 of the PWSO Act
101.ILLUSTRATION K	General Rulemaking
101.ILLUSTRATION L	Site-specific Rulemaking

101.APPENDIX B Appearance Form

101.APPENDIX C Withdrawal of Appearance Form

101.APPENDIX D Notice of Filing

101.APPENDIX E Affidavit or Certificate of Service

101.ILLUSTRATION A Service by Non-Attorney

101.ILLUSTRATION B Service by Attorney

101.APPENDIX F Notice of Withdrawal (Repealed)

101.APPENDIX G Comparison of Former and Current Rules (Repealed)

101.APPENDIX H Affidavit or Certificate of E-Mail Service

101.ILLUSTRATION A E-Mail Service by Non-Attorney

101.ILLUSTRATION B E-Mail Service by Attorney

101.APPENDIX I Consent to Receipt of E-Mail Service

AUTHORITY: Implementing 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 the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] 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].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-21 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 101.100 Applicability

- a) This Part sets forth the rules generally applicable to proceedings before the Illinois Pollution Control Board (Board), and should be read in conjunction with procedural rules for the Board's specific ~~proceedings~~~~proeesses~~, found at 35 Ill. Adm. Code 102 through 130, and the Board's Administrative Rules, found at 2 Ill. Adm. Code 2175. In the event of a conflict between the rules of this Part and those found in subsequent Parts, the more specific requirement applies.
- b) ~~Except when the Board's procedural rules provide otherwise, the~~The provisions of the Code of Civil Procedure [735 ILCS 5] and the Supreme Court Rules [Ill. S. Ct. Rules] do not ~~expressly~~ apply to proceedings before the Board. However, the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance ~~when~~~~where~~ the Board's procedural rules are silent.

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

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act [415 ILCS 5].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board pursuant to authority granted to the Board under Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding pursuant to Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means either a citation issued pursuant to Section 31.1 of the Act by the Agency; or by a unit of local government acting as the Agency's delegate pursuant to Section 4(r) of the Act, or a citation issued pursuant to Section 23.1 of the PWSO Act.

"Administrative citation review" or "administrative citation appeal" means a petition for review of an administrative citation filed pursuant to Section 31.1(d) of the Act or Section 23.1(d) of the PWSO Act. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

~~"Affidavit of service" means an affidavit that states that service of a document upon specified persons was made, and the manner in which, and date upon which, service was made.~~

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency pursuant to Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its recommended disposition of a petition for variance or an adjusted standard. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628 of this Part.)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval pursuant to any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map* [415 ILCS 5/7.1].

"Attorney General" means the Attorney General of the State of Illinois or representatives thereof.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least three members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board pursuant to Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that contains a summary of the facts of a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor pursuant to Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board pursuant to Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" means the federal *Clean Air Act, as now and hereafter amended, 42 USC 7401 et seq.* [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.

"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory and regulatory proceedings. COOL is located on the Board's website at <http://www.ipcb.state.il.us/COOL/external/>.

"Complaint" means the initial filing that begins an enforcement proceeding pursuant to Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article* [415 ILCS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

5/7.1].

"Counter-complaint" means a pleading that a respondent files setting forth a claim against a complainant. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files setting forth a claim against a co-party. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land and/or water.

"Decision date" means the date of the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board is required to render a decision in an adjudicatory proceeding. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

"Decision period" means the period of time established by the Act within which the Board is required to make a Board decision in certain adjudicatory proceedings. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" *means paper that has been processed to remove inks, clays, coatings, binders and other contaminants* [415 ILCS 20/2.1].

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation [function under Section 31.1 of the Act](#) or other function pursuant to Section 4(r) of the Act.

"Digital signature" means *a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105]

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding in order to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

"Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Electronic" includes *electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies* [5 ILCS 175/5-105].

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means *a signature in electronic form attached to or logically associated with an electronic document* [5 ILCS 175/5-105].

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"Ex parte communication" means *any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the Board. "Ex parte communication" does not include the following:*

statements by a person publicly made in a public forum, including pleadings, transcripts, public comments, and public remarks made part of the proceeding's record [5 ILCS 430/5-50(b)(i)];

statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter [5 ILCS 430/5-50(b)(ii)]; and

statements made by a State employee of the Board to Board members or other employees of the Board [5 ILCS 430/5-50(b)(iii)]. For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114 of this Part.)

"Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant to Section 28.5 of the Act.

"Federally required rule" means *a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40 [415 ILCS 5/28.2].*

"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago IL 60601. Electronic filing is done through COOL on the Board's website.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is subject to judicial review. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Identical-in-substance rules" or "identical-in-substance regulations" means *State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois* [415 ILCS 5/7.2].

"Initial filing" means the filing that initiates a Board proceeding and opens a docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

"Inquiry hearing" means a hearing conducted by the Board for the purpose of seeking input and comment from the public regarding the need for a rulemaking proceeding in a specific area.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518 of this Part.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the leave of the Board. (See Section 101.402 of this Part.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 of this Part and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in name, giving an incorrect name in a complaint or other document with respect to any properly included party.

"Motion" means a request made to the Board or the hearing officer for the purposes of obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means *a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste* [415 ILCS 5/3.330(b)].

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings;*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act [415 ILCS 5/7(a)].

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Notice to reinstate" means a document filed that recommences the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308 of this Part.)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700 of this Part.)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made pursuant to Title XVI of the Act.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding who is not a party, or a person who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the notice list of a particular proceeding, testifying at hearing, or making public remarks at a Board meeting.

"Participant in a CAAPP Comment Process" means a person who takes part in a Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.

"Party" means the person by or against whom an adjudicatory proceeding is brought or who is granted party status by the Board through intervention or joinder.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Party in interest" means the Agency when asked to conduct an investigation pursuant to Section 30 of the Act during an ongoing proceeding. (See Section 101.404 of this Part.)

"Peremptory rulemaking" means *any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the Board as to the content of the rule it is required to adopt.* [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board pursuant to Title X of the Act.

"Person" means *any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.* [415 ILCS 5/3.315]

"Petition" means the initial filing in an adjudicatory proceeding other than an enforcement proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" means *any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities:*

waste storage sites regulated under 40 CFR 761.42;

sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3 of the Act;

abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;

sites or facilities used by any person to specifically conduct a landscape composting operation;

regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of the Act;

the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) of the Act are exempt under this definition;

the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Adm. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Adm. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are:

located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and

in compliance with all applicable zoning requirements;

the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

the portion of a site or facility that accepts exclusively general construction or demolition debris, is located in a county with a population over 3,000,000 as of January 1, 2000 or in a county that is contiguous to such a county, and is operated and located in accordance with Section 22.38 of the Act;

the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of the Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;

effective January 1, 2008, a site or facility that temporarily holds in transit for 10 days or less, non-putrescible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-putrescible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;

the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of the Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;

a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received;

the portion of a site or facility that is used for the composting of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste, including, but not limited to, corrugated paper or cardboard, and meets all of the following requirements:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

there must not be more than a total of 30,000 cubic yards of livestock waste in raw form or in the process of being composted at the site or facility at any one time;

all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must, by the end of each operating day, be processed and placed into an enclosed vessel in which air flow and temperature are controlled, or all of the following additional requirements must be met:

the portion of the site or facility used for the composting operation must include a setback of at least 200 feet from the nearest potable water supply well;

the portion of the site or facility used for the composting operation must be located outside the boundary of the 10-year floodplain or floodproofed;

except in municipalities with more than 1,000,000 inhabitants, the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility;

the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the property line of all of the following areas:

facilities that primarily serve to house or treat people that are immunocompromised or immunosuppressed, such as cancer or AIDS patients; people with asthma, cystic fibrosis, or bioaerosol allergies; or children under the age of one year;

primary and secondary schools and adjacent areas that the schools use for recreation;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

any facility for child care licensed under Section 3 of the Child Care Act of 1969; preschools; and adjacent areas that the facilities or preschools use for recreation;

by the end of each operating day, all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must be processed into windrows or other piles and covered in a manner that prevents scavenging by birds and animals and that prevents other nuisances;

food scrap, livestock waste, crop residue, uncontaminated wood waste, paper waste, and compost must not be placed within 5 feet of the water table;

the site or facility must meet all of the requirements of the Wild and Scenic Rivers Act (16 USC 1271 et seq.);

the site or facility must not restrict the flow of a 100-year flood, result in washout of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste from a 100-year flood, or reduce the temporary water storage capacity of the 100-year floodplain, unless measures are undertaken to provide alternative storage capacity, such as by providing lagoons, holding tanks, or drainage around structures at the facility;

the site or facility must not be located in any area where it may pose a threat of harm or destruction to the features for which:

an irreplaceable historic or archaeological site has been listed under the National Historic Preservation Act (16 USC 470 et seq.) or the Illinois Historic Preservation Act [20 ILCS 3410];

a natural landmark has been designated by the National Park Service or the Illinois State Historic Preservation Office; or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

a natural area has been designated as a Dedicated Illinois Nature Preserve under the Illinois Natural Areas Preservation Act [525 ILCS 30];

the site or facility must not be located in an area where it may jeopardize the continued existence of any designated endangered species, result in the destruction or adverse modification of the critical habitat for such species, or cause or contribute to the taking of any endangered or threatened species of plant, fish, or wildlife listed under the Endangered Species Act (16 USC 1531 et seq.) or the Illinois Endangered Species Protection Act [520 ILCS 10];

the portion of a site or facility that is located entirely within a home rule unit having a population no less than 120,000 and no more than 135,000, according to the 2000 federal census, and that meets all of the following requirements:

the portion of the site or facility is used exclusively to perform testing of a thermochemical conversion technology using only woody biomass, collected as landscape waste within the boundaries of the home rule unit, as the hydrocarbon feedstock for the production of synthetic gas in accordance with Section 39.9 of the Act;

the portion of the site or facility is in compliance with all applicable zoning requirements; and

a complete application for a demonstration permit at the portion of the site or facility has been submitted to the Agency in accordance with Section 39.9 of the Act within one year after July 27, 2010 (the effective date of Public Act 96-1314);

the portion of a site or facility used to perform limited testing of a gasification conversion technology in accordance with Section 39.8 of the Act and for which a complete permit application has been submitted to the Agency prior to one year from April 9, 2010 (the effective date of Public Act 96-887);

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

the portion of a site or facility that it used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies under Section 17.9A of the Act; and

until July 1, 2017, the portion of a site or facility:

that is used exclusively for the transfer of commingled landscape waste and food scrap held at the site or facility for no longer than 24 hours after their receipt;

that is located entirely within a home rule unit having a population of either not less than 100,000 and not more than 115,000 according to the 2010 federal census or not less than 5,000 and not more than 10,000 according to the 2010 federal census;

that is permitted, by the Agency, prior to January 1, 2002, for the transfer of landscape waste; and

for which a permit application is submitted to the Agency by July 1, 2014 to modify an existing permit for the transfer of landscape waste to also include, on a demonstration basis not to exceed 18 months, the transfer of commingled landscape waste and food scrap. [415 ILCS 5/3.330]

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage. Additionally, it includes all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream [415 ILCS 20/3(f)(2)(i) and (ii)].* (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing* [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board pursuant to authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Public remarks" mean an oral statement that is publicly made at a Board meeting and directed to the Board concerning a proceeding listed on that meeting's agenda. (See Section 101.110(d) of this Subpart.)

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

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required pursuant to Section 21(f) of the Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during the course of a proceeding.

"Recycled paper" means paper which contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

~~"Registered agent" means a person registered with the Secretary of State for the purpose of accepting service for any entity, or a person otherwise authorized in writing as an agent for the purpose of accepting service for that entity.~~

"Regulatory hearing" or "proceeding" means a hearing or proceeding held pursuant to Title VII of the Act or other applicable law with respect to regulations.

"Regulatory relief mechanisms" means variances, provisional variances and adjusted standards. (See 35 Ill. Adm. Code 104.)

"Representing" means, for purposes of Part 130, *describing, depicting, containing, constituting, reflecting or recording* [415 ILCS 5/7.1].

"Requester" means, for purposes of Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

"Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Responsible Operator in Charge" means an individual who is designated as a Responsible Operator in Charge of a community water supply under Section 1 of the PWSO Act.

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H of this Part.)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

"Service" means delivery of ~~a document~~documents upon a person. (See Sections 101.300(c) and 101.304 of this Part.)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory or adjudicatory proceeding upon whom parties or participants must serve motions, prefiled questions and prefiled testimony and any other documents that the parties or participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into two or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought pursuant to Section 31 of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding pursuant to an order of the Board or by operation of law. (See Section 101.514 of this Part.)

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document that compels the production of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516 of this Part.)

"Third party complaint" means a pleading that a respondent files setting forth a claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

"Trade secret" means *the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.* [415 ILCS 5/3.490]

"Transcript" means the official recorded testimony from a hearing or public remarks from a Board meeting.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made pursuant to Title XVI of the Act.

"UST" means underground storage tank.

"Variance" means a temporary exemption from any specified regulation, requirement or order of the Board granted to a petitioner by the Board pursuant to Title IX of the Act *upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship* [415 ILCS 5/35(a)].

"Waiver" means the intentional relinquishing of a known right, usually with

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308 of this Part.)

"Website" means the Board's computer-based informational and filing service accessed on the Internet at <http://www.ipcb.state.il.us>.

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

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section 101.300 Computation of Time

- a) Computation of Time. Computation of any period of time prescribed in the Act, other applicable law, or this Subpart will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.
- b) Date~~Time~~ of Filing. Documents will be considered filed with the Clerk only ~~if when~~ they are filed in compliance~~conformance~~ with the requirements found in Section 101.302 of this Subpart and any other filing requirements specified elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). Subpart J of this Part sets forth when electronic documents submitted to COOL will be considered filed.
 - 1) If a document is submitted to the Clerk for filing delivered in person, by messenger service, or by mail delivery service other than U.S. Mail, by e-mail or facsimile pursuant to Section 101.302(d), or by third-party commercial carrier, the document is~~documents are~~ considered filed on the date it is~~when they are~~ received by~~in the Office of~~ the Clerk. However, a document received by the Clerk after 4:30 p.m. is considered filed on the next business day. The Clerk will mark the filing date on each filed document.
 - 2) Notwithstanding subsection (b)(1), if~~if~~ the Clerk receives a document by U.S. Mail or third-party commercial carrier after~~subsequent~~ to a filing deadline date, yet the postmark date precedes or is the same as the filing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~deadline date,~~ the document will be deemed filed on:

- A) ~~The~~ the postmark date the document was provided to the U.S. Postal Service; or
- B) The date the document was provided to the third-party commercial carrier for delivery to the Clerk within three business days, ~~provided all filing requirements set forth in Section 101.302 of this Subpart are met.~~
- 3) For purposes of subsection (b)(2), documentation of when the document being filed was provided to the U.S. Postal Service or the third-party commercial carrier consists of the affidavit or certificate required by Section 101.304(d)(2)(A) or (d)(4) and must accompany the document being filed. In addition, for delivery by a third-party commercial carrier, the affidavit or certificate must contain the filing party's representation that the charge for delivery to the Clerk within three business days was prepaid ~~Documents received in the Office of the Clerk after 4:30 p.m. will be marked as filed the following business day, provided all filing requirements set forth in Section 101.302 of this Subpart are met. The Clerk will record the appropriate filing date on all filed documents.~~
- 4) For purposes of Board decision deadlines, the decision period does not begin until the date that is marked by the Clerk on which ~~the initial filing is date stamped by the Clerk.~~
- c) Date ~~Time~~ of Service. Documents will be considered served upon another party only if they are served in compliance with Section 101.304 and any other service requirements specified elsewhere in the Board's procedural rules. The date on which service of a document is considered to have been completed is determined as follows: ~~In the case of personal service, service is deemed complete on the date personal delivery was effectuated. In the case of facsimile transmission, service is deemed complete on the date of a complete and proper transmittal. Facsimile filings are only allowed in accordance with Section 101.302(d) of this Subpart. In the case of service by e-mail, Section 101.1060(d) of this Part sets forth when service is deemed complete. E-mail filings are only allowed in accordance with Section 101.302(d) of this Subpart. In the case of service by registered or certified mail, or by messenger service, service is deemed complete on the date~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~specified on the registered or certified mail receipt or the messenger service receipt. In the case of service by U.S. Mail, service is presumed complete four days after mailing. The presumption can be rebutted by proper proof.~~

- 1) Personal Service. Personal service of a document is complete on the date the document was delivered, as that date is specified in either the affidavit or certificate of service signed by the person who made personal delivery or the declaration of service signed by the process server who made personal delivery.
- 2) Service by U.S. Mail or Third-Party Commercial Carrier with Recipient Signature. If a recipient's signature is recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is complete on the date the document was delivered, as that date is specified in the delivery confirmation signed by the recipient of service.
- 3) Service by E-Mail or Facsimile. Service of a document by e-mail or facsimile is complete on the date the document was successfully transmitted, as that date is specified in the affidavit or certificate of service, signed by the party to the proceeding who is serving the document. However, a document successfully e-mailed or faxed on a Saturday or Sunday, on a national or State legal holiday, or after 5:00 p.m. on a weekday is deemed served on the next business day.
- 4) Service by U.S. Mail or Third-Party Commercial Carrier without Recipient Signature. If a recipient's signature is not recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is presumed complete four days after the date on which the document was provided to the U.S. Postal Service or the third-party commercial carrier.
 - A) The presumption applies only if an affidavit or certificate of service, signed by the party to the proceeding who is serving the document, states the following: the date, the time by when, and the place where, the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.

B) The presumption can be rebutted by proper proof, which may include delivery tracking information from the website of the U.S. Postal Service or the website of the third-party commercial carrier.

- d) Date of Board Decision-
- 1) For purposes of statutory decision deadline proceedings, the date of the Board decision is the date of the Board meeting where a final opinion and order of the Board was adopted by the vote of at least three Board members.
 - 2) For purposes of appeal, the date of the party's certified mail receipt of the Board decision is the date of service of the final opinion and order by the Board upon the appealing party. Or, in the event of a timely filed motion for reconsideration filed pursuant to Section 101.520 ~~of this Part~~, the date of the party's certified mail receipt of the Board order ruling upon the motion is the date of service by the Board upon the appealing party.

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

Section 101.302 Filing of Documents

- a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.
- b) All documents to be filed with the Board ~~must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen and ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010 of this Part. All documents to be filed with the Board~~ must be filed with the Clerk ~~Clerk's Office. Service on a hearing~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~officer does not constitute filing with the Board unless the document is submitted to the hearing officer during the course of a hearing.~~

- 1) Documents may be filed at the following address:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

- 2) All documents to be filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010.

- 3) Each document being filed with the Clerk (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).

- 4) The date on which a document is considered to have been filed is determined pursuant to Section 101.300(b).

- 5) Service of a document upon a hearing officer does not constitute filing with the Clerk unless the document is submitted to the hearing officer during the course of a hearing.

- c) Documents may be filed with the Clerk by U.S. Mail ~~or other mail delivery service~~, by electronic means in accordance with Subpart J ~~of this Part~~, in person, or by third-party commercial carrier~~messenger~~.
- d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
- e) The initial filings listed in this subsection require filing fees and will only be

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1)-~~of this Part~~, but cannot be paid in cash.

- 1) Petition for Site-Specific Regulation, \$75;
 - 2) Petition for Variance, \$75;
 - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, \$75;
 - 4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, \$75; and
 - 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, \$75.
- f) ~~All documents~~ filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer ~~be served~~ in accordance with Section 101.304~~Subpart C of this Part~~.
- g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on 8½ x 11 inch paper, except as provided in subsection (j)-~~of this Section~~. Paper documents must be submitted on recycled paper as defined in Subpart B of this Part, and, if feasible, double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:
- 1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and
 - 2) The size of the type in the body of the text must be no less than 12 point font, and in footnotes no less than 10 point font.
- h) Unless the Board or its procedural rules provide otherwise, all documents must be filed in paper or through COOL electronically pursuant to this subsection (h).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Except as provided in subsection (h)(2), (h)(3), or (h)(4) ~~of this Section~~:
 - A) Any type of document may be filed in paper or through COOL.
 - B) If a document is filed in paper, the original and three copies of the document (four total) are required.
 - C) If a document is filed through COOL in accordance with Subpart J ~~of this Part~~, no paper original or copy of the document is required.
- 2) The original documents listed in this subsection (h)(2) must be filed in paper. In lieu of filing three paper copies with the original pursuant to subsection (h)(1)(B) ~~of this Section~~, a compact disk of the document in text-searchable Adobe PDF may be filed with the original. The following documents must be filed in paper:
 - A) The original Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification) (see 35 Ill. Adm. Code 105.116);
 - B) The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility) (see 35 Ill. Adm. Code 105.116);
 - C) The original local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting) (see 35 Ill. Adm. Code 107.304); and
 - D) An original oversized exhibit (see subsection (j) ~~of this Section~~).
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) When filing a rulemaking proposal, the proponent must file three paper originals of any document that is protected by copyright law (17 USC 101 et seq.) and proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference; provided, however:
- A) One or two paper copies may be substituted for the corresponding number of required paper originals if the rulemaking proposal includes the copyright owner's written authorization for the rulemaking proponent to create the paper copy or copies.
 - B) The proponent may file no more than two authorized copies in lieu of the corresponding number of required originals.
 - C) Any copyrighted document that is proposed for incorporation by reference is prohibited from being filed electronically and must instead be filed only in paper. The remainder of the rulemaking proposal may be filed through COOL.
- i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except upon leave or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h) ~~of this Section~~.
- j) Oversized Exhibits. When reasonably practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11 inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.
- k) Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.304 Service of Documents

- a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.
- b) Duty to Serve and When to Initiate Service. A party filing a document with the Clerk pursuant to Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing.~~Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Documentation of service of initial filings must be filed with the Board upon completion of service.~~
 - 1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.
 - 2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).
 - 3) The date on which service of a document is considered to have been completed is determined pursuant to Section 101.300(c).
 - 4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.
 - 5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal jurisdiction, any challenge to service must be made pursuant to Section 101.400(a)(5).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) ~~Methods~~Method of Service. A method of service specified in this subsection (c) must be used to serve a document.~~Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or by e-mail in accordance with Subpart J of this Part, except for service of enforcement complaints, administrative citations, and EMSA statements of deficiency, which must be made personally, by registered or certified mail, or by messenger service. Documentation of service of enforcement complaints, administrative citations, and EMSA statements of deficiency must be filed with the Board upon completion of service.~~
- 1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:
- A) Personal service;
 - B) U.S. Mail;
 - C) Third-party commercial carrier;
 - D) E-mail in accordance with Subpart J; and
 - E) Facsimile, but only if the party being served has filed a notice consenting to receipt of facsimile service and not filed a notice revoking that consent.
- 2) Service of enforcement complaints, administrative citations pursuant to Section 31.1 of the Act, and EMSA statements of deficiency upon respondents must be made as follows:
- A) By personal service;
 - B) By U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
 - C) By a third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) Service of administrative citations pursuant to Section 23.1 of the PWSO Act must be made as follows:
- A) By personal service; or
 - B) By certified mail.
- d) Documentation Affidavit or Certificate of Service and When to File Documentation of Service. A party serving a document upon another party must also file documentation of that service. A proceeding is subject to dismissal, and the filing party is persons are subject to sanctions, if documentation of service is not timely filed with the Clerk. in accordance with Section 101.800 of this Part, if service is not timely made. Documentation of service is the responsibility of the person filing and serving the document. An affidavit of service or certificate of service must accompany all filings. A sample form of the affidavit of service and certificate of service is available in Appendix E of this Part. The requirements for documenting service and filing that documentation are as follows:
- 1) For personal service of a document, either an affidavit or certificate of service signed by the person who made personal delivery or a declaration of service signed by the process server who made personal delivery must accompany the document being filed with the Clerk. However, if the signed affidavit, certificate or declaration is not available to the filing party when the document (e.g., enforcement complaint, petition for review) is submitted for filing:
 - A) An affidavit or certificate of service, signed by the filing party, must accompany the document being filed with the Clerk. The affidavit or certificate of service must state that service has been initiated, but not yet completed, and the following: the date, the time by when, and the place where, the document was provided to the person making personal delivery; the address appearing on the envelope or package containing the document; and that the delivery charge was prepaid; and
 - B) Within seven days after it becomes available to the filing party, the affidavit or certificate of service containing the signature of the person who made personal delivery or the declaration of service

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

containing the signature of the process server must be filed with the Clerk, accompanied by a notice identifying the filed document (e.g., enforcement complaint, petition for review) to which the signed affidavit, certificate or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served pursuant to subsection (a).

- 2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document (e.g., enforcement complaint, petition for review) is submitted for filing:
 - A) An affidavit or certificate of service, signed by the filing party, must accompany the document being filed with the Clerk. The affidavit or certificate of service must state that service has been initiated, but not yet completed, and the following: the date, the time by when, and the place where, the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid; and
 - B) Within seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature must be filed with the Clerk, accompanied by a notice identifying the filed document (e.g., enforcement complaint, petition for review) to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served pursuant to subsection (a).
- 3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date of the facsimile transmission and the time by when it took place, the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.

- 4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place where, the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
 - 5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.
 - 6) A certificate of service must bear an attorney's handwritten or typographical signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.
- e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in accordance with this Section.
 - f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants are required to serve their comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.
 - g) Service on Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in accordance with Section 101.1070 ~~of this Part~~, consented to e-mail service.
- 1) Service on the Illinois Environmental Protection Agency (Agency). The

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Agency must be served at the following address:

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

- 2) Service on Office of State Fire Marshal (OSFM). The OSFM must be served at the following address:

Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703

- 3) Service on the Illinois Attorney General. The Office of the Attorney General must be served at the following address:

Division Chief of Environmental Enforcement
Office of the Attorney General
100 West Randolph St., Suite 1200
Chicago IL 60601

- 4) Service on the Illinois Department of Natural Resources (DNR). DNR must be served at the following address:

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

- 5) Service on the Illinois Department of Transportation (IDOT). IDOT must be served at the following address:

Office of Chief Counsel
DOT Administration Building
2300 S. Dirksen Parkway, Room 300

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62764

- 6) Service on Region V of the United States Environmental Protection Agency (USEPA). USEPA Region V must be served at the following address:

USEPA, Region V
77 West Jackson
Chicago IL 60604

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

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings

- a) Appearances. A person who is a party in a Board adjudicatory proceeding may appear as follows:
- 1) Individuals may appear on their own behalf or through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Attorney Act [705 ILCS 205/1].)
 - 2) When appearing before the Board, any person other than individuals must appear through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS 220/1] and Section 1 of the Attorney Act [705 ILCS 205/1].)
 - 3) An out-of-state attorney may appear as counsel and provide legal services in a particular proceeding before the Board only if the attorney has permission to do so pursuant to Supreme Court Rule 707 (Ill. S. Ct. Rule 707). No Board order is required for an out-of-state attorney to appear and no motions to appear pro hac vice may be filed with the Board. The out-of-state attorney's appearance must include the following:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) A representation that the out-of-state attorney is in, and will maintain throughout the proceeding, compliance with Illinois Supreme Court Rule 707; and
- B) Identification of the active status Illinois attorney associated with the out-of-state attorney pursuant to Supreme Court Rule 707 and the date on which the active status Illinois attorney filed an appearance in the proceeding. Attorneys who are licensed to practice in a state other than Illinois and who are not licensed and registered to practice in the State of Illinois may request to appear pro hac vice on a particular matter on a motion filed with the Board.
- 4) Any attorney appearing in a representative capacity must file a separate written ~~notice of~~ appearance with the Clerk, together with documentation of service of the appearance pursuant to Section 101.304(d) and notice of filing of the appearance pursuant to Section 101.304(b)(2)~~on all parties in the proceeding~~. Law firms, the Agency, and the Attorney General's Office when appearing before the Board must designate a lead attorney for purposes of phone and mail contact pertaining to the proceeding. Absent ~~a separate~~ written notice, the Board will designate the attorney whose signature appears first on the party's first filing~~complaint~~ as the lead attorney.
- 5) Any person ~~seeking appearing before the Board may appear in a special limited capacity~~ to contest personal jurisdiction must do so by filing a motion with the Board in accordance with Section 2-301 of the Code of Civil Procedure [735 ILCS 5/2-301].
- b) Withdrawals. An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation must file a notice of withdrawal with the Clerk, together with documentation of service and notice of filing on all parties or their representatives.
- c) Substitution. Any attorney who substitutes for an attorney of record must file a written appearance pursuant to subsection (a) ~~of this Section~~. That appearance must identify the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from a proceeding until a formal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

withdrawal is filed in accordance with subsection (b) ~~of this Section.~~

- d) Any person may appear on behalf of himself or others in a rulemaking proceeding in accordance with 35 Ill. Adm. Code 102.100(b).

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section 101.1060 E-Mail Service

- a) Except as provided in ~~subsections~~ subsection (b) and (c) of this Section, a person required to serve a document may serve the document by e-mail, in lieu of serving a paper document, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070 ~~of this Subpart.~~) To serve a document by e-mail, it is not necessary to electronically file the document or to obtain a State of Illinois digital signature certificate.
- b) Service of enforcement complaints, administrative citations under Section 31.1 of the Act, and EMSA statements of deficiency on a respondent must be made personally, by U.S. Mail with a recipient's signature recorded ~~registered or certified mail~~, or by a third-party commercial carrier with a recipient's signature recorded ~~messenger service~~. (See Section 101.304(c)(2) ~~of this Part.~~)
- c) Service of administrative citations under Section 23.1 of the PWSO Act must be made personally or by certified mail.
- ~~d~~e) A person required to serve a document on the hearing officer may serve the hearing officer by sending the document to the hearing officer's e-mail address in lieu of serving a paper document.
- ~~d~~) ~~When a document is served by e-mail, service is considered complete on the date of successful e-mail transmission, except that a document successfully e-mailed on a Saturday or Sunday, on a national or State legal holiday, or after 5:00 p.m. on a weekday is deemed served the next business day.~~
- e) When a document is served by e-mail, documentation of service must be filed with the Clerk and served on all persons entitled to service in that proceeding. A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

sample form of affidavit or certificate of e-mail service is available in Appendix H ~~to this Part~~. An affidavit or certificate of e-mail service must ~~be filed with the document in question and~~ include the following:

- 1) The e-mail address of the recipient and the person authorizing the filing;
 - 2) The number of pages in the e-mail transmission;
 - 3) A statement that the document was served by e-mail; and
 - 4) The date ~~and time~~ of the e-mail transmission and the time by when it took place.
- f) If any computer malfunction precludes the e-mail service of a document, the person authorizing the filing must promptly serve the document in paper pursuant to Section 101.304(c) ~~of this Part~~.
- g) Except for final orders of the Board, which the Clerk's Office serves in paper by certified mail, the Clerk's Office may serve Board orders and hearing officer orders by e-mail, in lieu of serving paper documents, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070 ~~of this Subpart~~.) The Clerk will record the date and time of e-mail service, consistent with subsection (e) ~~of this Section~~.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX A Captions

Section 101.ILLUSTRATION I Administrative Citation Pursuant to Section 31.1 of the Act

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF COOK,)	
)	
Complainant,)	
)	
v.	)	AC xx-xxx
	)	IEPA or County Number
ABC DISPOSAL AND	)	(Administrative Citation)
RECYCLING, INC.,)	
)	
Respondent.)	

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX A Captions

Section 101.ILLUSTRATION J Administrative Citation Pursuant to Section 23.1 of the PWSO Act

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)

PROTECTION AGENCY,)

)

Complainant,)

)

v.)

AC xx-xxx

)

IEPA Number

JOHN SMITH,)

(Administrative Citation)

)

Respondent.)

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX A Captions

Section 101.ILLUSTRATION K General Rulemaking

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
REVISION OF THE FLUORIDE	)	Rxx-xxx
DRINKING WATER STANDARD:	)	(Rulemaking-X)
PROPOSED AMENDMENTS TO)	
35 Ill. Adm. Code XXX.XXX)	

(Source: Illustration K renumbered from Illustration J at 39 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX A Captions

Section 101.ILLUSTRATION ~~L~~K Site-specific Rulemaking

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED SITE-SPECIFIC WATER	)	Rxx-xxx
POLLUTION REGULATIONS	)	(Site-Specific Rulemaking-X)
APPLICABLE TO XYZ)	
UTILITIES COMPANY OF ILLINOIS)	
DISCHARGE TO XYZ CREEK:)	
35 Ill. Adm. Code)	

BOARD NOTE: The Board notes that all docket numbers consist of letter(s) followed by two numbers. The first two digit number is the fiscal year the matter was filed. Then the second number is the sequential number for that type of filing the Board has received that year. Persons making filings are not responsible for the Board docket number on the original filing. The Clerk of the Board will assign the appropriate docket number when the matter is filed. All filings in a matter that has been assigned a docket number should contain a docket number located as indicated on the examples above. The Board will also be designating its opinion and orders with the type of case and media involved in the matter. Where the above examples have the type of case proceeded by "X" the Board will, for example if the case is dealing with a variance from certain water regulations, put the media, water, after variance to become "Variance-Water". Again, persons making filings need not place this on original filings. However, all filings in a matter that has been assigned the media should indicate that media in the location as in the above examples. Where there are specific procedural rules developed for specific types of cases, as in a "UST Appeal", persons making filings should follow those examples.

(Source: Illustration L renumbered from Illustration J at 39 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX E Affidavit or Certificate of Service

Section 101.ILLUSTRATION A Service by Non-Attorney

AFFIDAVIT OF SERVICE

I, the undersigned, on oath [or affirmation] state that I have served on the date of _____, the attached [describe document served] upon the following persons; by [describe method of service, e.g., depositing the document in a U.S. Postal Service mailbox or delivering the document to a third-party commercial carrier], by the time of _____, with proper postage or delivery charges prepaid upon the following persons:

[list persons served and the respective addresses at which they were served]

[signature]

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 20 ____.

Notary Public

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX E Affidavit or Certificate of Service

Section 101.ILLUSTRATION B Service by Attorney

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of _____ the attached [describe document served] upon the following persons; by [describe method of service, e.g., depositing the document in a U.S. Postal Service mailbox or delivering the document to a third-party commercial carrier], by the time of _____, with proper postage or delivery charges prepaid upon the following persons:

[list persons served and the respective addresses at which they were served]

[signature]

[date]

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Enforcement
- 2) Code Citation: 35 Ill. Adm. Code 103
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
103.204	Amendment
103.206	Amendment
103.404	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: The proposal will amend the Board's procedural rules for accepted methods of service in an enforcement proceeding.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The amendments are consistent with amendments proposed to the Board's general rules [35 Ill. Adm. Code 101].
- 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 rulemakings contain incorporations by reference? No
- 10) Are there any other rulemaking pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R15-20 and be addressed to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R15-20 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or by e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board in an enforcement proceeding.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on a regulatory agenda.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARDPART 103
ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	
103.100	Applicability
103.102	Severability
103.104	Definitions
103.106	General

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY
INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section	
103.200	Who May File
103.202	Parties
103.204	Notice, Complaint, and Answer
103.206	Adding Parties; Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims
103.208	Request for Informal Agency Investigation
103.210	Notice of Complaint
103.212	Hearing on Complaint

SUBPART C: SETTLEMENT PROCEDURE

Section	
103.300	Request for Relief from Hearing Requirement in State Enforcement Proceeding
103.301	Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding
103.302	Contents of Proposed Stipulation and Settlement Agreement
103.304	Hearing on Proposed Stipulation and Settlement Agreement
103.306	Board Order on Proposed Stipulation and Settlement Agreement

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section	
103.400	Purpose, Scope, and Applicability
103.402	Interim Order
103.404	Joinder of the Agency
103.406	Draft Permit or Statement
103.408	Stipulated Draft Remedy
103.410	Contents of Public Notice
103.412	Public Comment
103.414	Hearing
103.416	Contents of Board Order

SUBPART E: IMPOSITION OF PENALTIES

Section	
103.500	Default
103.502	Civil Penalties
103.504	Civil Penalties Method of Payment

SUBPART F: ENFORCING BOARD ORDERS

Section	
103.600	Civil Action

103.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part III, Enforcement Proceedings, in R70-4, at 1 PCB 43, October 8, 1970; amended in R80-2, at 39 PCB 456, at 4 Ill. Reg. 39, p. 285, effective September 12, 1980; amended in R80-18, at 44 PCB 125, at 5 Ill. Reg. 14146, effective December 3, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1383, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 425, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8793, effective June 8,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

2005; amended in R14-21 at 39 Ill. Reg. 2349, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. _____, effective _____.

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY
INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section 103.204 Notice, Complaint, and Answer

- a) An enforcement proceeding will be commenced by the service of a notice and complaint by U.S. Mail with a recipient's signature recorded~~registered or certified mail~~, a third-party commercial carrier with a recipient's signature recorded~~messenger service~~, or personal service upon all respondents and the filing of the notice and complaint with the Clerk. (See 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h) and 101.304(c)(2).
- b) The notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board.
- c) The complaint must be captioned in accordance with 35 Ill. Adm. Code 101.Appendix A, Illustration A and contain:
 - 1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;
 - 2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense; and
 - 3) A concise statement of the relief that the complainant seeks.
- d) Except as provided in subsection (e) ~~of this Section~~, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.

- e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) of this Section will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.
- f) Any party serving a complaint upon another party must include the following language in the notice: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

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

Section 103.206 Adding Parties; Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims

- a) The Board, on its own motion or the motion of a respondent, may order a person to be added as a respondent if a complete determination of a controversy cannot be had without the presence of the person who is not already a party to the proceeding.
- b) If the Board orders a person to be added as a respondent pursuant to subsection (a) ~~of this Section~~, the Board will grant the complainant leave to file an amended complaint that sets forth a claim against the added respondent. The amended complaint must meet the requirements of Section 103.204 ~~of this Subpart~~.
- c) Misjoinder and nonjoinder of parties with respect to enforcement proceedings are governed by 35 Ill. Adm. Code 101.403(b).
- d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

person, the party who wishes to file the pleading must move the Board for leave to file the pleading.

- e) The pleading sought to be filed pursuant to subsection (d) ~~of this Section~~ must:
- 1) Set forth a claim that arises out of the occurrence or occurrences that are the subject of the proceeding; and
 - 2) Meet the requirements of Section 103.204 of this Subpart, including the requirement to serve the pleading by U.S. Mail with a recipient's signature recorded ~~registered or certified mail, a third-party commercial carrier with a recipient's signature recorded~~ messenger service, or personal service upon the respondent, counter-respondent, cross-respondent, or third-party respondent.

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

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section 103.404 Joinder of the Agency

If the Board directs that the Agency be joined, the Clerk will send, ~~by messenger or~~ by certified mail addressed to the Agency, a copy of the Board Order requiring joinder. The mailing will constitute service of process upon the Agency.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3) Section Number: 106.708 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: The proposal will amend the Board's procedural rules for accepted methods of service. Specifically, the proposal amends the accepted methods of service for the Illinois Environmental Protection Agency to serve a notice of filing and statement of deficiency when attempting to terminate an Environmental Management System Agreement.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The amendments are consistent with amendments proposed to the Board's general rules [35 Ill. Adm. Code 101].
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R15-20 and be addressed to:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R15-20 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or by e-mail at Daniel.Robertson@illinois.gov.

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
106.100	Applicability
106.102	Severability
106.104	Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS

Section	
106.200	General
106.202	Petition Requirements
106.204	Additional Petition Requirements in Sulfur Dioxide Demonstrations
106.206	Notice
106.208	Recommendation and Response
106.210	Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section	
106.300	General
106.302	Initiation of Proceeding
106.304	Petition Content Requirements
106.306	Response and Reply
106.308	Hearing
106.310	Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT
PERMIT PROGRAM (CAAPP) PERMITS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section	
106.400	General
106.402	Definitions
106.404	Initiation of Proceedings
106.406	Petition Content Requirements
106.408	Response and Reply
106.410	Hearing
106.412	Burden of Proof
106.414	Opinion and Order
106.416	USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

Section	
106.500	General
106.502	Definitions
106.504	Initiation of Proceedings
106.506	Petition Content Requirements
106.508	Response and Reply
106.510	Hearing
106.512	Burden of Proof
106.514	Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

Section	
106.600	General
106.602	Initiation of Proceedings
106.604	Petition Content Requirements
106.606	Response and Reply
106.608	Hearing
106.610	Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section	
106.700	Purpose
106.702	Applicability
106.704	Termination Under Section 52.3-4(b) or (b-5) of the Act
106.706	Who May Initiate, Parties
106.707	Notice, Statement of Deficiency, Answer
106.708	Service
106.710	Notice of Hearing
106.712	Deficient Performance
106.714	Board Decision
106.716	Burden of Proof
106.718	Motions, Responses
106.720	Intervention
106.722	Continuances
106.724	Discovery, Admissions
106.726	Subpoenas
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants
106.732	Order and Conduct of Hearing
106.734	Evidentiary Matters
106.736	Post-Hearing Procedures
106.738	Motion After Entry of Final Order
106.740	Relief from Final Orders

SUBPART H: AUTHORIZATIONS UNDER THE REGULATION
OF PHOSPHORUS IN DETERGENTS ACT

Section	
106.800	General
106.802	Definitions
106.804	Initiation of Proceeding
106.806	Petition Content Requirements
106.808	Response and Reply
106.810	Hearing
106.812	Burden of Proof

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section	
106.900	General
106.902	Initiation of Proceeding
106.904	Petition Content Requirements
106.906	Petition Notice Requirements
106.908	Proof of Petition Notice Requirements
106.910	Response and Reply
106.912	Hearing
106.914	Burden of Proof

SUBPART J: TEMPORARY LANDFILL BAN WAIVERS UNDER
THE ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT

Section	
106.1000	General (Repealed)
106.1002	Definitions (Repealed)
106.1004	Initiation of Proceeding (Repealed)
106.1006	Petition Content Requirements (Repealed)
106.1008	Response and Reply (Repealed)
106.1010	Burden of Proof (Repealed)
106.1012	Board Decision (Repealed)

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO
SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)

Section	
106.1100	Purpose
106.1105	General
106.1110	Definitions
106.1115	Early Screening
106.1120	Detailed Plan of Study
106.1125	Initiation of Proceeding
106.1130	Contents of Petition
106.1135	Petition Notice Requirements
106.1140	Proof of Petition Notice Requirements
106.1145	Recommendation and Response
106.1150	Request for Public Hearing
106.1155	Notice and Conduct of Hearing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

106.1160	Burden of Proof
106.1165	Evidentiary Matters
106.1170	Opinion and Order
106.1175	Post-Hearing Procedures
106.1180	Renewal of Alternative Thermal Effluent Limitations

106.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 21.622.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], and Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 7, 2012; amended in R12-11 at 36 Ill. Reg. 16581, effective November 5, 2012; amended in R13-20 at 38 Ill. Reg. 6086, effective February 26, 2014; amended in R14-21 at 39 Ill. Reg. 2375, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. _____, effective _____.

**SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL
MANAGEMENT SYSTEM AGREEMENTS (EMSAs)**

Section 106.708 Service

The Agency must serve a copy of the notice of filing and statement of deficiency personally, by [U.S. Mail with a recipient's signature recorded](#)~~registered or certified mail~~, or by [a third-party commercial carrier with a recipient's signature recorded](#)~~messenger service~~. (See 35 Ill. Adm. Code 101.300(c) and 101.304(c)(2).)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administrative Citations
- 2) Code Citation: 35 Ill. Adm. Code 108
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
108.100	Amendment
108.200	Amendment
108.202	Amendment
108.204	Amendment
108.206	Amendment
108.300	Amendment
108.402	Amendment
108.500	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: The proposal will amend the Board's procedural rules for administrative citations filed pursuant to Section 23.1 of the Public Water Supply Operations Act [415 ILCS 45/23.1].
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: PA 98-856 (eff. Aug. 4, 2014)
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R15-20 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R15-20 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or by e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking affects every community water supply in Illinois.
 - B) Reporting, bookkeeping or other procedures required for compliance: Each individual who is a responsible operator in charge of a community water supply is required to submit consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results, such as corrosion control reports and monitoring results.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on a regulatory agenda.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 108
ADMINISTRATIVE CITATIONS

SUBPART A: GENERAL PROVISIONS

Section	
108.100	Applicability
108.102	Severability
108.104	Definitions

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section	
108.200	Administrative Citation Issuance
108.202	Service of Citation/Filing of Citation with the Board
108.204	Filing Requirements for Petition to Contest
108.206	Petition Contents
108.208	AC Recipient's Voluntary Withdrawal

SUBPART C: HEARINGS

Section	
108.300	Authorization of Hearing

SUBPART D: BOARD DECISIONS

Section	
108.400	Burden of Proof
108.402	Dismissal
108.404	Default
108.406	Non-Contested Citations

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section	
108.500	Penalties and Costs
108.502	Claimed Costs of Agency or Delegated Unit
108.504	Board Costs
108.506	Response to Claimed Costs and Reply

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42 (b)(4-5) and 55(k) of the Act [415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42 (b)(4-5) and 55(k)] and Sections 1.1(b)(3) and 23.1 of the Public Water Supply Operations Act [415 ILCS 45/1.1(b)(3) and 23.1].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2397, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 108.100 Applicability

- a) This Part applies to proceedings before the Board concerning petitions to contest the issuance of an administrative citation pursuant to Section 31.1 of the Act or Section 23.1 of the Public Water Supply Operations (PWSO) Act [415 ILCS 45].
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101 which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and this Part, the provisions of this Part will apply.

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

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section 108.200 Administrative Citation Issuance

An administrative citation (AC) may be issued by either of the following:

- a) Illinois Environmental Protection Agency (Agency). The Agency may issue an

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

AC pursuant to Section 31.1 of the Act or Section 23.1 of the PWSO Act.

- b) Delegated Unit of Local Government (Delegated Unit) for an administrative citation issued pursuant to Section 31.1 of the Act. Pursuant to Section 4(r) of the Act, the Agency may by agreement delegate its AC authority to a unit of local government which may then issue an AC. All Delegated Units must submit to the Clerk of the Board a copy of the delegation agreement on or before July 1 of every year.

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

Section 108.202 Service of Citation/Filing of Citation with the Board

- a) In accordance with Section 31.1 of the Act, the Agency or Delegated Unit may serve an AC upon any person (AC Recipient) believed, through direct observation, to have violated Section 21(o) ~~or (p)~~, 21(p), 22.51, 22.51a or 55(k) of the Act. ~~Service of an AC upon the AC Recipient must be made personally, by registered or certified mail, or by messenger service. (See 35 Ill. Adm. Code 101.300(c) and 101.304(c).)~~
- 1) The AC must be issued and served upon the AC Recipient not more than 60 days after the date of the observed violation and must contain the following information:
- A) A statement specifying the provisions of Section 21(o) or (p) of the Act that the AC Recipient was observed to have violated;
- B) A copy of the inspection report in which the Agency or Delegated Unit recorded the violation. The report must include the date and time of inspection and weather conditions prevailing during the inspection;
- C) The penalty imposed by Section 42(b)(4) or (b)(4-5) of the Act for the violations;
- D) An affidavit by the personnel observing the violation, attesting to their material actions and observations; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

or certified mail. The Agency must file the AC with the Board no later than 15 days after the date of service upon the AC Recipient.

- b) ~~The AC must be issued and served upon the AC Recipient not more than 60 days after the date of the observed violation and must contain the following information:~~
- 1) ~~A statement specifying the provisions of Section 21(o) or (p) of the Act that the AC Recipient was observed to have violated;~~
 - 2) ~~A copy of the inspection report in which the Agency or Delegated Unit recorded the violation, which report must include the date and time of inspection, and weather conditions prevailing during the inspection;~~
 - 3) ~~The penalty imposed by Section 42(b)(4) or (b)(4-5) of the Act for the violations;~~
 - 4) ~~An affidavit by the personnel observing the violation, attesting to their material actions and observations; and~~
 - 5) ~~Instructions for contesting the AC findings, including notification that the AC Recipient has 35 days within which to file a petition to contest the AC, and if an appeal is filed and the Board finds a violation, the AC Recipient must pay hearing costs pursuant to Section 108.500 of this Part.~~
- e) ~~As required by Section 31.1 of the Act, the Agency or Delegated Unit must file the AC with the Board no later than 10 days after the date of service upon the AC Recipient.~~

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

Section 108.204 Filing Requirements for Petition to Contest

- a) **Who May File.** The AC Recipient may file with the Board a petition to contest the AC. For an AC issued pursuant to Section 31.1 of the Act, the~~The~~ AC Recipient must be named as the respondent and the Agency or Delegated Unit must be named as the complainant in accordance with Section 31.1(d)(2) of the Act. For an AC issued pursuant to Section 23.1 of the PWSO Act, the AC

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Recipient must be named as the respondent and the Agency must be named as the complainant in accordance with Section 23.1(d) of the Act.

- b) Time to File. The petition to contest must be filed with the Board within 35 days after the date of the service of the AC as required by Section 31.1(d)(1) of the Act and Section 23.1(d) of the PWSO Act.
- c) Additional Requirements. Additional filing and service requirements are set forth at 35 Ill. Adm. Code 101.Subpart C.

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

Section 108.206 Petition Contents

A formal petition to contest must include any reasons why the AC Recipient believes the AC was improperly issued, including:

- a) The AC Recipient does not own the property or, for a community water supply, is not the Responsible Operator in Charge;
- b) The AC Recipient did not cause or allow the alleged violations;
- c) The AC was not timely filed or properly served; or
- d) The alleged violation was the result of uncontrollable circumstances.

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

SUBPART C: HEARINGS

Section 108.300 Authorization of Hearing

- a) The hearing date will be set within 60 days after the filing of the petition to contest unless the hearing officer orders otherwise to prevent material prejudice.
- b) The hearing officer will give the parties at least 21 days written notice of the hearing in accordance with Section 31.1(d) of the Act or Section 23.1(d) of the PWSO Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) The hearing will be held in accordance with 35 Ill. Adm. Code 101.Subpart F.
- d) The hearing will be held at a time and location consistent with the Board's resources as designated by the hearing officer.

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

SUBPART D: BOARD DECISIONS

Section 108.402 Dismissal

The Board may issue an order dismissing the AC and closing the docket upon its own motion or a motion by the AC Recipient, Agency or Delegated Unit if the AC was not timely and properly served pursuant to Section 31.1 of the Act [or Section 23.1 of the PWSO Act](#), and Section 108.200 of this Part.

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

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

Section 108.500 Penalties and Costs

The Board will impose penalties and assess costs as follows:

- a) If the AC is defaulted or non-contested as set forth in Section 108.404 or 108.406 of this Part, respectively, the Board will do the following:
 - 1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a \$500 penalty for each violation of each such provision; ~~and~~
 - 2) Impose on the AC Recipient found to have violated any provision of Section 21(p), [22.51, 22.51a or 55\(k\)](#) of the Act a \$1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p), [22.51, 22.51a or 55\(k\)](#) of the Act that is the AC ~~Recipient's~~[recipient's](#) second or subsequent adjudicated violation of that provision; ~~and-~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) Impose on the AC Recipient found to have violated Section 1.1(b)(3) of the PWSO Act a \$500 civil penalty for each violation of that provision, except that the penalty amount imposed will be \$1,500 for each violation of Section 1.1(b)(3) that is the AC Recipient's second or subsequent adjudicated violation of that provision.
- b) If the AC Recipient contests the AC and the Board finds, based on the record, that the violation occurred and that the AC Recipient has not shown that the violation resulted from uncontrollable circumstances, the Board will do the following:
 - 1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a \$500 penalty for each violation of each such provision;
 - 2) Impose on the AC Recipient found to have violated any provision of Section 21(p), 22.51, 22.51a or 55(k) of the Act a \$1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p), 22.51, 22.51a or 55(k) of the Act that is the AC recipient's second or subsequent adjudicated violation of that provision; ~~and~~
 - 3) Impose on the AC Recipient found to have violated Section 1.1(b)(3) of the PWSO Act a \$500 civil penalty for each violation of that provision, except that the penalty amount imposed will be \$1,500 for each violation of Section 1.1(b)(3) that is the AC Recipient's second or subsequent adjudicated violation of that provision; and
 - 43) Assess the AC Recipient found to have violated any provision of Section 21(o), ~~or 21(p), 22.51, 22.51a or 55(k)~~ of the Act or Section 1.1(b)(3) of the PWSO Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.
- c) If the AC Recipient contests the AC but voluntarily withdraws the petition for review pursuant to Section 108.208 of this Part after the hearing starts, the Board will do the following:
 - 1) Impose on the AC Recipient found to have violated any provision of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 21(o) of the Act a \$500 penalty for each violation of each such provision;

- 2) Impose on the AC Recipient found to have violated any provision of Section 21(p), 22.51, 22.51a or 55(k) of the Act a \$1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p), 22.51, 22.51a or 55(k) of the Act that is the AC recipient's second or subsequent adjudicated violation of that provision; ~~and~~
- 3) Impose on the AC Recipient found to have violated Section 1.1(b)(3) of the PWSO Act a \$500 civil penalty for each violation of that provision, except that the penalty amount imposed will be \$1,500 for each violation of Section 1.1(b)(3) that is the AC Recipient's second or subsequent adjudicated violation of that provision; and
- 4)3) Assess the AC Recipient found to have violated any provision of Section 21(o) or (p) of the Act or Section 1.1(b)(3) of the PWSO Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Illinois Blood Bank Code
- 2) Code Citation: 77 Ill. Adm. Code 490
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
490.10	Repeal
490.20	Repeal
490.30	Repeal
490.40	Repeal
490.210	Repeal
490.220	Repeal
490.230	Repeal
490.310	Repeal
490.320	Repeal
490.330	Repeal
490.410	Repeal
490.420	Repeal
490.430	Repeal
490.440	Repeal
490.510	Repeal
490.520	Repeal
490.610	Repeal
490.620	Repeal
490.710	Repeal
490.720	Repeal
490.730	Repeal
490.740	Repeal
490.750	Repeal
490.760	Repeal
490.770	Repeal
490.780	Repeal
490.790	Repeal
490.810	Repeal
490.820	Repeal
490.830	Repeal
490.840	Repeal
490.910	Repeal
490.APPENDIX A	Repeal

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

490.EXHIBIT A Repeal
490.EXHIBIT B Repeal

- 4) Statutory Authority: Illinois Blood Bank Act [210 ILCS 10]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Blood Bank Code is being repealed because its statutory authority, the Illinois Blood Bank Act, was repealed by PA 87-1269. Blood banks are now regulated under the Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25].

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

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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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:

Elizabeth Paton
Assistant General Counsel

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761
217/782-2043
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized:

This rule was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was not known at the time the latest Regulatory Agendas were drafted.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER d: LABORATORIES AND BLOOD BANKS

PART 490
ILLINOIS BLOOD BANK CODE (REPEALED)

SUBPART A: GENERAL

Section	
490.10	Definitions
490.20	Application and License
490.30	Blood Banks required to be Licensed
490.40	Incorporated Materials

SUBPART B: DIRECTORS OF BLOOD BANKS

Section	
490.210	Qualifications of the Blood Bank Director
490.220	Operational Participation of the Director
490.230	Number of Blood Banks Permitted to Operate

SUBPART C: LOCATION, CONSTRUCTION, SANITATION, AND SAFETY

Section	
490.310	Location
490.320	Conformance to Local Ordinances
490.330	Safety and Sanitation

SUBPART D: QUALIFICATIONS OF PERSONNEL

Section	
490.410	General Supervisor – Laboratory
490.420	Medical Technologist
490.430	Technician
490.440	Phlebotomy and Patient Care Personnel

SUBPART E: EQUIPMENT

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Section

- 490.510 Facilities and Equipment
- 490.520 Preventive Maintenance of Equipment and Instruments

SUBPART F: PROFICIENCY TESTING AND INSPECTION OF FACILITIES

Section

- 490.610 Inspections
- 490.620 Proficiency Survey Program

SUBPART G: BLOOD BANK PROCEDURES

Section

- 490.710 General
- 490.720 Donors and Donor Blood – Criteria for Donor Selection
- 490.730 Collection of Blood
- 490.740 Labeling
- 490.750 Laboratory Testing
- 490.760 Blood Storage
- 490.770 Preparation of Blood Components
- 490.780 Hemapheresis, Also Known as Plasmapheresis
- 490.790 Autologous Blood and Blood Components

SUBPART H: PROHIBITED PRACTICES

Section

- 490.810 Terms Not to be Used in Names of Blood Banks
- 490.820 Prohibitions in Advertising and Announcements
- 490.830 Acceptance of Specimens and Reporting of Results
- 490.840 Referral of Specimens for Examination

SUBPART I: RECORDS

- 490.910 Records
- 490.APPENDIX A License Application for Blood Banks
- 490.EXHIBIT A Initial License Application for Blood Banks

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

490.EXHIBIT B Renewal License Application for Blood Banks

AUTHORITY: Implementing and authorized by the Illinois Blood Bank Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 601-101 et seq.).

SOURCE: Adopted at 13 Ill. Reg. 14409, effective September 1, 1989; repealed at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 490.10 Definitions

"Accredited Institution" or "Accredited College or University" means a college or university located in the United States which has been accredited by one of the regional accreditation programs recognized by the U.S. Commissioner of Education or a college or university located outside the United States where the individual provides documentation that the individual's education is equivalent to that provided in the United States by: documenting that the foreign degree has been accepted by an accredited institution in the United States at which the person is or was enrolled in a graduate program; or having the individual's credentials evaluated by the Credentials Evaluation Service, Inc., Los Angeles, California.

"Act" means the Illinois Blood Bank Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 601-101 et seq. as now and hereafter amended.)

"Approved Blood Bank" means, for purposes of personnel qualifications, a blood bank directed by a physician licensed to practice medicine in the state in which the blood bank is located and which is licensed by FDA (21 CFR 600-680)(1987).

"Approved Clinical Laboratory" means, for purposes of personnel qualifications, a clinical laboratory – with a director at the doctoral level – of a hospital, health department, university, medical research institution; or a clinical laboratory licensed under the Illinois Clinical Laboratory Act (Ill. Rev. Stat. 1987, ch. 111½, par. 621-101 et seq.); or a blood bank licensed under the Blood Bank Act; or a clinical laboratory licensed under the Clinical Laboratories Improvement Act of 1967 (42 U.S.C. 201 et seq. as amended by the Clinical Laboratory Amendments of 1988, P.L. 100-578, October 31, 1988) or, a clinical laboratory approved under 42 CFR 405, Subpart M, (1987).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

"Demonstration of proficiency" means the blood bank meets the standards for acceptable proficiency testing as stated in Section 490.620(f) by means of on-site analysis of specimens sent to the blood bank by agencies approved by the Department for that purpose (See Section 490.620 of this Part).

"Department" means the Illinois Department of Public Health.

"Drawing Station" means a facility in a permanent location under the direction of licensed blood bank only for the collection and transient storage of blood prior to shipment to a licensed blood bank for processing, distribution, and/or administration of blood or its component parts.

"FDA" means the Food and Drug Administration.

"Full-time experience" means experience in the field being referred to consisting of a least 35 hours per week conducting activities required by the specific position or field such biological, microbiological, serological, chemical, immunohematological, radioimmunological, hematological, biophysical, cytological, pathological, toxicological or other examination of materials derived from the human body for the purposes of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of, the health of humans including determining drug use by humans, shall constitute acceptable experience.

"Hospital Licensing Act" means the Hospital Licensing Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 142 et seq. as now and hereafter amended).

"Illinois Clinical Laboratory Act" means the Illinois Clinical Laboratory Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 621-101 et seq. as not and hereafter amended.)

"Medical Practice Act of 1987" means the Medical Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, pars. 4400-01 et seq., as now and hereafter amended).

"Physician" means a person licensed in Illinois to practice medicine in all of its branches.

"Technician" means an individual who meets the educational and experience

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

requirements set forth in Section 490.430 of this Part and who functions only under the direct supervision of a director, supervisor or technologist.

"Technologist" means an individual who meet the educational and experience requirements set forth in Section 490.420 of this Part and who performs tests requiring the exercise of judgment and responsibility with minimal supervision by the director or supervisor only in those areas of testing in which the technologist is qualified by education, training and experience.

Section 490.20 Application and License

- a) All applications shall be submitted on forms provided by the Department; shall be signed by the owner(s) or authorized officer(s) of the corporation and the director(s) and shall be notarized and include all information requested on the form (See Appendix A, Exhibits A and B of this Part).
- b) If during the one year period for which the license or renewal thereto has been issued, there is a change of owner, location, or name of the blood bank, the Department shall be notified in writing at least 10 days prior to such change or the license application shall require an initial application fee.
- c) If a license is to be issued to an individual or two or more persons who are co-owners, all such persons shall be identified upon the application for license and all such persons shall sign the application and it shall be notarized.
- d) An application for a license, where the owner is a corporation, shall clearly disclose all persons or other entities owning 5% more of the shares in the corporation. An authorized officer(s) of the corporation shall sign the application and it shall be notarized.
- e) A program and services form shall be completed to permit the Department to determine the fields of science represented by the services of the blood bank and the tests performed.
- f) Licenses may be revoked for the causes set forth in Article IV and Article VIII of the Act. All hearings and appeals shall be conducted in accordance with the procedures set forth in Article VIII of the Act and the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100). Any

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

person holding 5% or more of the ownership in a blood bank and was convicted or violated Section 8-101 of the Act, shall constitute grounds for denial or revocation of a license.

Section 490.30 Blood Banks required to be Licensed

- a) The following are required to be licensed pursuant to the Act:
 - 1) all blood banks located within the State of Illinois except as otherwise provided in subsection (b) of this Section; and
 - 2) blood banks located in hospitals licensed under the Hospital Licensing Act but in which the blood bank is not operated by the governing authority of such hospital, including blood banks operating under a lease arrangement with another entity.
- b) The following are not required to be licensed under the Act:
 - 1) blood banks operated by the United States Government;
 - 2) blood banks located in hospitals licensed under the Hospital Licensing Act which are operated by the governing board of such hospitals, owned by the exact same entity identified as owner/operator of the hospital as indicated on the last hospital license application filed with the Department, located at the same site and contiguous with the hospital, subject to the regulations and hospital by-laws, and where the entity which receives payment for blood bank services is the same entity that owns the hospital; and
 - 3) places used as drawing locations for mobile unit collections by a licensed blood bank on a temporary basis, and not as a regularly constituted substation of the blood bank, provided, they are used only for the collection and the transient storage of blood prior to shipment to a licensed blood bank.

Section 490.40 Incorporated Materials

The following materials are incorporated or referenced in this Part:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) State of Illinois Statutes
- 1) Illinois Clinical Laboratory Act (Ill. Rev. Stat. 1987, par. 621-101 et seq. as amended by P.A. 85-1025, effective June 30, 1988; P.A. 85-1202, effective August 25, 1988; P.A. 85-1251, effective August 30, 1988.) (Section 490.10)
 - 2) Illinois Blood Bank Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 601-101 et seq.) (Section 490.10)
 - 3) Hospital Licensing Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 142 et seq.) (Section 490.10)
 - 4) Medical Practice Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, pars. 4400 et seq.) (Section 490.10)
 - 5) Blood Labeling Act (Ill. Rev. Stat. 1987, ch. 111½, pars. 620-1 et seq.) (Section 490.330(f)(1))
 - 6) The Illinois Nursing Act (Ill. Rev. Stat. 1987, ch. 111, pars. 3501 et seq.) (Section 490.440(b))
- b) State of Illinois Regulations:
- 1) 35 Ill. Adm. Code 307 (Section 490.330(d)(5))
 - 2) 35 Ill. Adm. Code 724 (Section 490.330(e)(3))
 - 3) 35 Ill. Adm. Code 809 (Section 490.330(e)(3)(C))
 - 4) 77 Ill. Adm. Code 450 (Sections 490.750(d)(3) and 490.750(d)(4))

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 5) 77 Ill. Adm. Code 697
(Sections 490.720(d)(1) and 490.750(b)(4)(F))
- c) Federal Guidelines, Statutes, and Federal Regulations:
- 1) 42 CFR 405, Subpart M (1988)
(Section 490.10)
 - 2) 21 CFR 600-800 (1988)
(Section 490.10)
 - 3) 21 CFR 606
(Section 490.710(e), 490.740, 490.910(a) and 490.750(a))
 - 4) 21 CFR 610
(Section 490.750(a))
 - 5) 21 CFR 640
(Section 490.720(c)(2)(B), 490.730(a), 490.760(b), 490.770 and 490.780)
 - 6) Laboratory Personnel Qualification Appraisal Form Health Care Financing Authority (HCFA)
HCFA-3084-OMB No. 0938-0049
(See Section 490.410(b), 490.420(a), 490.430 and 490.440)
 - 7) Standard for Blood Bank and Transfusion Services, 13th Edition (1989)
American Association of Blood Banks, 1117 N. Nineteenth Street, No. 600, Arlington, VA, 22209 (Section 490.610(c) and 490.760(a)(5))
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulation and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

SUBPART B: DIRECTORS OF BLOOD BANKS

Section 490.210 Qualifications of the Blood Bank Director

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

The Director of a blood Bank must be:

- a) a physician certified or determined board eligible by the American Board of Pathology or the American Osteopathic Board of Pathology in Clinical Pathology and has completed not less than one year of post-graduate training and experience in blood banking methods in an approved blood bank, or
- b) a physician who has completed not less than two years of post-graduate training and experience in blood banking methods in an approved blood bank with at least one year in a supervised trainee ("Resident", "Fellow", or similar) status, or
- c) any individual who is director of an independent blood bank on July 1, 1988 (effective date of P.A. 85-279), may continue as medical director of that blood bank.

Section 490.220 Operational Participation of the Director

- a) The blood bank director must be present in the blood bank each week and follow the weekly schedule established by the director to assess the activities of the blood bank by personnel observation, evaluation, and review of reports and procedures; except for absences due to emergencies, illness, or professional meetings. In case of an absence for vacation or other purposes which does not exceed 30 days, the owner shall ensure director coverage by designating an acting director who is qualified to direct that blood bank.
- b) In case of an absence which is more than 30 days, the owner shall designate an acting director to direct the blood bank in the directors' absence who meets the qualifications set forth in Section 490.120 of this Part. The owner shall submit to the Department immediately after 30 days has elapsed, a personnel form for the acting director. The acting director may continue to function as director for a period of 90 days after the Laboratory Personnel Qualification Appraisal Form (See Section 490.40 (c)(6)) is received. This individual may be the same individual designated in accordance with Section 490.230(a) or another individual.
- c) An acting director may not serve as director for a period of time exceeding 120 days, 90 days after the personnel form was received by the Department, unless a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

new license application is submitted to the Department to change the acting director to director.

Section 490.230 Number of Blood Banks Permitted to Operate

- a) The medical director of a blood bank shall not direct more than three blood banks and/or laboratories. This limitation does not preclude a director from serving additional blood banks as a consultant, general supervisor, or acting director. Blood bank drawing stations licensed under this Act do not count with respect to this limitation (See Section 6-103 of the Act).
- b) The medical director of a blood bank must actively participate in the activities and programs of the blood bank; therefore, attendance of brief duration sufficing only for signature of reports or other nominal administrative duties will not constitute compliance with Section 6-103 of the Act.

SUBPART C: LOCATION, CONSTRUCTION, SANITATION, AND SAFETY

Section 490.310 Location

Before approval, each initial license application and each license application for a change of location shall be accompanied by a letter from the blood bank owner indicating that the owner has checked with a zoning authority having jurisdiction and the zoning authority has found that the blood bank location meets local requirements or will meet local requirements within a time frame acceptable to the zoning authority. If no zoning authority has jurisdiction, the letter shall state that fact and the license shall state that fact.

Section 490.320 Conformance to Local Ordinances

Before approval, each initial license application and each license application for a change of location shall be accompanied by or followed within 90 days by a letter from the blood bank owner indicating that the blood bank has been inspected and approved by local authorities to ensure that the blood bank meets applicable building safety and plumbing codes, fire codes, ordinances, or by-laws. If there are no local codes, ordinances or by-laws relating to plumbing, the owner shall submit documentation that the blood bank premise has been inspected and approved by a State license plumber within the last year.

Section 490.330 Safety and Sanitation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

The blood bank director shall establish a Safety and Sanitation Manual. This manual shall be consistently implemented throughout the facility and contain signed or initiated documentation that it has been reviewed at least annually to ensure that the requirements of this Part are met. The manual shall include, but need not be limited to the following items.

- a) General Sanitation and Safety with respect to:
 - 1) minimum clearance in passageways to assure that exit from and access to the blood bank are not impeded;
 - 2) the selection of and the schedule for the use of cleaning supplies for floors, walls, ceilings, bench tops, and sinks;
 - 3) hand washing protocol;
 - 4) requiring that all items which are disposed of and which can cut or puncture the skin shall be placed in containers which are impervious to the flow of liquids, rigid to prevent the container from collapsing when handled in the blood bank, and puncture proof to prevent needles from penetrating the container;
 - 5) safe storage, transport, and use of compressed gases which includes the requirements that each cylinder is shipped with a valve safety cover which shall remain in place when regulators are not attached; that gas cylinders shall be secured at all times; and that empty containers shall be labeled and removed from the laboratory;
 - 6) requiring that smoking, eating, and drinking shall be prohibited in all areas where laboratory work is performed;
 - 7) requiring that mouth pipeting shall be prohibited;
 - 8) requiring that all electrical outlets shall be grounded, electrical equipment be maintained in condition to prevent shock and fire hazards, and protective fuses not be bypassed; and
 - 9) requiring that all blood letting and collection devices shall be both sterile

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

and disposable.

- b) Warning signs shall indicate "Hazardous Materials" (radioactive, flammable, poison, irritant, carcinogen, etc.) with precautions in the use and storage of those materials.
- c) Fire prevention and control with respect to:
 - 1) the use of open flames, flammables, safety cans, safety cabinets, etc.;
 - 2) requiring that a fire extinguisher of the CO₂ or dry chemical type shall be in the blood bank;
 - 3) actions to be taken in case of fire; and
 - 4) requiring that provisions for unimpeded egress from the building shall be posted.
- d) Chemical and radiation hazards with respect to:
 - 1) maintenance of a list of all chemicals used in the laboratory categorized as corrosive, flammable, toxic, carcinogenic, explosive, radioactive, and mutagenic;
 - 2) actions to be taken in the event of an accidental break or spill;
 - 3) ventilation in accordance with the kinds of chemical fumes encountered;
 - 4) storage requirements for chemicals which are caustic, poisonous, flammable, carcinogenic, etc.;
 - 5) requiring that wastes discharged to any sewer shall be in accordance with the general requirements for liquids, solids, or gases as well as specific requirements for mercury and cyanide as established by the Illinois Environmental Protection Agency (35 Ill. Adm. Code 307).
 - 6) safe use of radioactive materials, if used in the laboratory, by having a registration certificate from and validated by the U.S. Nuclear Regulatory

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Commission or a license from the U.S. Nuclear Regulatory Commission for the use of radioactive materials.

- e) Biological hazards with respect to:
- 1) handling of specimens to avoid infection by air, ingestion, direct inoculation, and skin contact;
 - 2) providing biological safety hoods and other appropriate barriers (i.e. plastic gloves) in accordance with the types of organisms encountered; and
 - 3) disposal of cultures, specimens, and other potentially infectious materials which shall be completely incinerated or sterilized or sealed in a container as indicated below to render the materials innocuous before disposal or removal from the premises.
 - A) The incineration of materials shall be done in accordance with the requirements of the Illinois Environmental Protection Agency concerning the operation of an incinerator (35 Ill. Adm. Code 724).
 - B) The sterilization of materials shall be done by autoclaving the materials in accordance with the manufacturer's recommendations and the effectiveness of the autoclave shall be verified and documented at least weekly with a biological spore assay containing *B. Stearothermophilus*.
 - C) The disposal or removal of materials outside of the facility shall be done in the following manner:
 - i) Incinerated or sterilized materials shall be disposed of through routine waste disposal methods without precautions against possible contamination.
 - ii) Materials which have not been incinerated or sterilized shall be disposed of by a waste hauler with a proper permit from the Illinois Environmental Protection Agency (35 Ill. Adm. Code 809). These materials must be sealed,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

transported and stored in biohazard containers. These containers shall be marked "Biohazard," bear the universal biohazard symbol, and be orange, orange and black and red. The containers shall be rigid and puncture-resistant such as a secondary metal or plastic can with a lid that can be opened by a step-on pedal. These containers shall be lined with one or two high density polyethylene or polypropylene plastic bags with a total thickness of at least 2.5 mil. or equivalent material. The containers which are marked "Biohazard" shall be sealed before being removed from the laboratory or blood bank.

- f) Handling and Disposal of HIV Contaminated Blood and Human Tissue
- 1) *Any blood or blood components, organs, semen or other human tissue showing exposure to HIV as evidenced by two of three reactive ELISA test results (according to the package insert – product circular) or any other identified causative agent of Aids or originating from a patient diagnosed with AIDS or AIDS-Related Complex (ARC) as defined in 77 Ill. Adm. Code 693.20, shall be disposed of in accordance with the provisions of this Section, unless a research facility licensed by the state requests, in writing, the use of such blood for Aids research. (Section 3.1 of The Blood Labeling Act, Ill. Rev. Stat. 1987, ch. 111½, par. 620-3.1) Any such blood or human tissue shall be disposed of in accordance with Section 490.330(f) (2) when no longer being used for research purposes.*
- A) A research facility, for the purposes of this Section, shall mean any clinical laboratory licensed under the Illinois Clinical Laboratory Act, any blood bank licensed under the Blood Bank Act or any hospital licensed under the Hospital Licensing Act.
- B) *Any person delivering such blood or blood components, organs, or semen or other human tissue to research facilities pursuant to such a request shall file with the Department a report which shall include at least the following information:*
- i) *a copy of the request for blood or human tissue;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- ii) *the quantity of blood for human tissue delivered;*
 - iii) *the name and location of the research facility to which the blood or human tissue was delivered; and*
 - iv) *the date and time of delivery.* (Section 620-3.1 of The Blood Labeling Act.)
- 2) Any such blood and blood components or human tissue, or any materials or paraphernalia exposed to or contaminated by such blood and blood components or human tissue shall be disposed of in accordance with the provisions of subsection (e) of this Section.

SUBPART D: QUALIFICATIONS OF PERSONNEL

Section 490.410 General Supervisor – Laboratory

- a) **Duties**

There shall be at least one qualified medical director or supervisor on the blood bank premises during all hours of laboratory operation. In the absence of the director, the supervisor shall supervise technical personnel and reporting of findings, perform tests requiring special scientific skills commensurate with education, training, and experience of the individual and be held responsible for the proper performance of all procedures. During periods of time when the blood bank is open for emergencies only, a director or supervisor is not required to be on the premises provided a qualified technologist (Section 490.420 of this Part) performs the emergency work and director or supervisor who is responsible for the work reviews and documents the review during the next duty period when the blood bank is open to provide other than emergency work or within 24 hours. An emergency shall be determined by the medical director or his physician designee. There shall be a written policy defining an emergency.
- b) An individual who meets one of the following qualifications shall qualify as general supervisor. These qualifications must be documented on the Department's form entitled "Laboratory Personnel Qualifications Appraisal" (See Section 490.40 (c)(6)).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) The individual is a physician licensed to practice medicine in all of its branches or has an earned doctoral degree from an accredited institution in a medical laboratory science such as microbiology and clinical chemistry and subsequent to graduation has had at least 1 year of full-time experience in one of the laboratory specialties in an approved clinical blood bank.
 - 2) The individual has a Master of Arts or Master of Science degree from an accredited institution in a medical laboratory science such as microbiology or clinical chemistry and subsequent to graduation has had at least 1 year of full-time laboratory experience in an approved blood bank.
 - 3) The individual is qualified as a medical technologist pursuant to the provisions of Section 490.420 of this Part. If the individual qualifies as a medical technologist because the individual has successfully passed the United States Public Health Service exam, that individual shall have an associate degree or at least 60 semester hours of academic credit from an accredited institution, including at least 12 semester hours in chemistry and biology courses. Subsequent to the date of qualifying as a medical technologist, the individual shall have at least four years of pertinent full-time laboratory experience in an approved clinical laboratory.
- c) Exception to Section 490.410(b)
An individual serving as general supervisor of a blood bank laboratory on September 15, 1970 and having had at least 15 years of pertinent laboratory experience prior to September 15, 1970 may continue to serve as supervisor of said laboratory: provided, that a minimum of 30 semester hours credit toward a Bachelor's degree with a chemical or biological science as the major subject shall reduce the required years of experience by 2 years, with an additional hours further reducing the required years of experience at the rate of 15 hours for 1 year.

Section 490.420 Medical Technologist

- a) An individual who meets one of the following qualifications shall qualify as a technologist. These qualifications must be documented on the Department's form entitled "Laboratory Personnel Qualifications Appraisal" (See Section 490.40 (c)(6)).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) The individual has an earned Bachelor's degree in Medical Technology from an accredited college or university.
- 2) The individual has successfully completed 3 academic years of study (a minimum of 90 semester hours or equivalent) in an accredited college or university which meets the specific requirement for entrance into, and successful completion of a course of training of at least 12 months, in a school of medical technology accredited by one of the agencies recognized by the U.S. Office of Education for the accreditation of training programs for medical technologists, as distinguished from training programs for medical laboratory technicians.
- 3) The individual has an earned Bachelor's degree from an accredited college or university in one of the chemical or biological sciences and in addition at least 1 year of laboratory experience and/or training in an approved blood bank or clinical laboratory (See 77 Ill. Adm. Code 450.10).
- 4) The individual has successfully completed 3 years (90 semester hours or equivalent in quarter hours) in an accredited college or university with a distribution of courses as shown below, and, in addition, successful experience and/or training covering several fields of medical laboratory work of such length (not less than 1 year), and of such quality that this experience or training in an approved blood bank or approved clinical laboratory (See 77 Ill. Adm. Code 450.10). The specified courses must have included lecture and laboratory work. Survey courses are not acceptable.
 - A) For those whose training was completed prior to September 15, 1963: Academic training must include at least 24 semester hours in chemistry and biology courses of which not less than 9 semester hours must have been in chemistry and must have included at least 6 semester hours in inorganic chemistry, and not less than 12 semester hours must have been in biology courses pertinent to the medical sciences.
 - B) For those whose training was completed after September 15, 1963. Academic training must include 16 semester hours in chemistry courses which must have included at least 6 semester hours in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

general chemistry and the remaining semester hours in analytical chemistry, organic chemistry and/or physical chemistry and which are acceptable toward a major in chemistry; 16 semester hours in biology courses which are pertinent to the medical sciences and are acceptable toward a major in biological sciences; and 3 semester hours of mathematics.

- b) An exception to the requirement of subsection (a) of this Section will be made if an individual who has successfully passed the United States Public Health Service exam in order to qualify under Medicare and Medicaid as a Clinical Laboratory Technologist provides documentation to the Department.

Section 490.430 Technician

An individual who meets one of the following qualifications shall qualify as a technician. These qualifications must be documented on the Department's form entitled "Laboratory Personnel Qualification Appraisal." (See Section 490.40 (c)(6)). The individual:

- a) has successfully completed 60 semester hours of academic credit including chemistry and biology as well as a structured curriculum in medical laboratory techniques at an accredited institution or has an associate degree based on a course of study including those subjects from an accredited institution; or
- b) is a high school graduate or equivalent such as a General Education Degree (GED), and has completed at least 1 year in a technician training program in a school accredited by an accrediting agency approved by the U.S. Office of Education; or
- c) is a high school graduate or equivalent such as a General Education Degree (GED), and has successfully completed an official military medical laboratory procedures course of at least 50 weeks duration and has held military enlisted occupational specialty of Medical Laboratory Specialist (Laboratory Technician).

Section 490.440 Phlebotomy and Patient Care Personnel

- a) A phlebotomist must be a high school graduate with documentation that the individual has completed a training program for proper patient care in blood drawing as established in writing by the medical director.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) Patient Care Personnel
A medical director or a registered nurse licensed under The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, pars. 3501 et seq.) shall be physically present when blood or blood components are infused or reinfused into an individual. The medical director shall have a written policy which states the availability of adequate medical care.

SUBPART E: EQUIPMENT

Section 490.510 Facilities and Equipment

The blood bank must document that the physical facilities, equipment, and instruments are in proper operating condition for performance of the procedures and tests for which the blood bank is requesting a license (See Subpart C of this Part).

Section 490.520 Preventive Maintenance of Equipment and Instruments

- a) Preventative Maintenance Program
- 1) The blood bank must establish a written preventive maintenance program for each piece of equipment. The program shall be documented and implemented on a regularly scheduled basis (i.e. at least semi-annually). It shall provide for instrument function verification and equipment maintenance.
 - 2) The preventive maintenance programs shall at minimum coincide with the manufacturer's recommendations.
- b) Service Contract
- 1) A service contract from an outside source for preventive maintenance is acceptable, provided there is a description of the services to be performed for each piece of equipment or instrument and a statement of the frequency of maintenance to be performed.
 - 2) A service contract does not negate the blood bank's responsibility to perform other routine maintenance as required by the written program.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 3) The blood bank must maintain records of preventive maintenance whether performed by the blood bank staff or by an outside source.
- c) Specific Laboratory Equipment
- 1) Automatic dilutors and samplers, except those checked by use of a calibrator or reference material included in each run, shall be checked for accuracy and reproducibility at least once per month.
 - 2) A serum/cell calibration shall be performed on a serofuge when first put into operation and after any adjustments or repairs which affect the speed, or balance during the operation of the instrument. Accuracy of the timer and RPM shall be checked at least quarterly.
 - 3) Volumetric glassware (pipets, flasks) that is not designated "class A" by the manufacturer, shall be calibrated to confirm its designated volume.
 - 4) Thermometer readings for temperature controlled spaces and instruments shall be recorded each day of use.
 - 5) All thermometers in the blood bank shall be checked against a reference thermometer (certified by the National Bureau of Standards or guaranteed by the manufacturer to meet the National Bureau of Standards criteria) before being placed into use and annually thereafter.
 - 6) Donor scales shall be checked for accuracy each day of use.
 - 7) Glassware shall be free from scratches and cloudiness, and graduations shall be legible. "To contain" and "to deliver" pipettes shall be separated.
 - 8) Analytical balances shall be checked for accuracy at least annually, and accuracy of weights verified by using "Class A Weights".

SUBPART F: PROFICIENCY TESTING AND INSPECTION OF FACILITIES

Section 490.610 Inspections

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) All blood banks subject to licensure shall be open to inspection by representatives of the Department during regular business hours unless otherwise directed. The premises and operation of all blood banks shall be inspected to study and evaluate the effect of the location, operation, supervision and procedures of such facilities on the health and safety of the people of this State. Routine inspections will be made annually and may be announced or unannounced. These inspections may include on-site review of records and reports pertaining to the technical operations of the blood bank.
- b) The Department may submit forms such as check lists to be completed by the director of the blood bank in advance of inspection in situations, such as but not limited to, changes in key personnel of the blood bank, changes in ownership, or additions to testing procedures offered in the testing menu of the blood bank. These forms shall include questions, such as but not limited to, relating to the construction, sanitation, equipment, procedures, and records which will be reviewed by the Department and will assist it in making inspections to determine compliance with the Act and this Part.
- c) A blood bank which elects to be accredited by the American Association of Blood Banks will routinely be inspected by the Department every other year, provided the blood bank director notifies the Department in writing prior to the first day of March of the interim year, that the American Association of Blood Banks has or will inspect that blood bank during that calendar year. Such inspections will be conducted using the "Standards for Blood Banks Transfusion Service;" (See Section 490.40(c)(7) of this Part). The blood bank director shall make provisions to send to the Department, within 60 days after the inspection by the American Association of Blood Banks, a copy of the inspection report and an indication of deficiencies found. If the Department does not receive an inspection report for the interim year, that blood bank will be inspected annually by the Department.

Section 490.620 Proficiency Survey Program

- a) The Department shall require the "demonstration of proficiency" in the performance of each test performed by the blood bank by means of State-operated or State/approved proficiency testing programs. The Department shall exclude some specific tests from this requirement when the proficiency testing is not available.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) Requirements for Testing Service Approval
- 1) The State-approved proficiency testing service must cover all specialties and subspecialties in which the blood bank performs tests as they are made available and are proven feasible for proficiency testing.
 - 2) The approved proficiency testing service must be provided to the Department an annual list of subscribers among Illinois blood banks authorizing the proficiency testing service to report their proficiency testing results to the Department.
 - 3) The approved proficiency testing service must supply exception reports (cumulative survey management reports-cumulative deviancy reports) covering at least the immediately previous two years of testing and documenting the unsatisfactory results during that minimum two year period. This report must be continuously updated with each new testing period and must be made available to both the participating blood bank and to the Department after each testing period.
 - 4) The approved proficiency testing service must provide at least the following statistical parameters: mean or median, standard deviation or coefficient of variation, and some discussion and/or indication of accuracy and precision.
 - 5) The approved proficiency testing service must document, in writing, the bases for establishing acceptable limits of performance. This documentation must be supplied to the Department and to each participating blood bank at least annually and must cover each test for which proficiency testing is provided. The yearly revision must include all changes made in the criteria for acceptable performance which are to prevail for the ensuing year.
 - 6) The approved proficiency testing service must provide proficiency testing materials to blood banks not less than four times a year.
- c) A list of the State-approved proficiency testing programs may be obtained from the Department of Public Health.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- d) The costs of such State-approved proficiency testing must be borne by the blood bank.
- e) The laboratory shall keep on file a copy of the results of proficiency testing for review by the State laboratory evaluators.
- f) Requirements For Blood Bank Testing
 - 1) The participating blood bank must test applicable materials each time they are distributed by the approved proficiency testing service.
 - 2) Those procedures performed by the blood bank for which test materials are provided by the approved proficiency testing service and which are not excluded by the Department from the "demonstration of proficiency" requirement must be proficiency tested by the participating blood bank each time test materials are received.
 - 3) The participating blood bank must authorize the approved proficiency testing service to report proficiency test results to the Department.
 - 4) The participating blood bank must test applicable materials only in the blood bank to which the license and the proficiency testing requirement applies, using personnel and equipment used in that facility in providing services.
 - 5) A blood bank shall be required to discontinue providing a service in a procedure or category of procedures (hematology, chemistry, bacteriology-mycology, parasitology, immunology-serology, immunoematology, etc.) if:
 - A) For two consecutive testing periods the blood bank fails to report on test materials received for procedures for which the blood bank is required to be proficiency tested, or
 - B) For two consecutive testing periods the blood bank demonstrates unsatisfactory performance in a procedure or category of procedures. A determination of satisfactory performance for a procedure for a testing period shall be based upon all results being

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

within acceptable limits established by the proficiency testing service for that procedure and approved by the Department. A determination of satisfactory performance for a category of procedures shall be based upon 75% or more of the results in that category over three consecutive testing periods being within acceptable limits established by the proficiency testing service and approved by the Department.

- 6) A blood bank whose services have been disapproved because of unsatisfactory performance shall be reapproved by the Department to provide these services after meeting one of the following conditions, provided that proficiency testing is the only problem preventing reapproval.
 - A) The blood bank results for an unsatisfactory discontinued procedure shall be within acceptable limits established by the proficiency testing service for two consecutive testing periods subsequent to the testing periods which resulted in the discontinuance of the procedure. The blood bank results for a disapproved category of procedures shall have 75% or more of the results within acceptable limits established by the proficiency testing service for two consecutive testing periods subsequent to the testing periods which resulted in discontinuance of the category of procedures.
 - B) On-site Testing
 - i) The blood bank director may request that the Department provide proficiency testing specimens for purposes of retesting. The cost of such proficiency testing specimens shall be borne wholly by the blood bank. The Department shall ship or cause to be shipped, hand carry or otherwise convey to the blood bank such proficiency testing specimens within three weeks after receipt of such request. The Department shall provide an on-site visit by a laboratory evaluator for the purpose of determining deficiency correction.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- ii) Successful analysis (100% of specific analysis or 75% of the results of a category are within acceptable limits as established by the testing service) shall be based upon test results of specimens similar in number and purpose to those normally received by the blood bank where performance has been judged unsatisfactory.
 - iii) Successful analysis and site visit findings shall be used to reapprove either a category of procedures or a given procedure.
- g) Renewal of license may be denied for failure to maintain an acceptable standard of proficiency in the program and services provided by a blood bank (See Section 490.620(f) of this Part).

SUBPART G: BLOOD BANK PROCEDURES

Section 490.710 General

- a) The definition of a "blood bank" is interpreted to include facilities operating or located in Illinois, fixed or mobile, used for the collection, processing, storage, distribution, and/or administration of human blood or any of its derivatives prior to transfusion including plasma, packed red blood cells, platelets, or leukocytes. (See Section 490.30 of this Part)
- b) Any changes in the program or services of a blood bank shall be reported to the Department in writing within 30 days. This includes the discontinuance or addition of a service as well as a change in the use of any reference or research facility by the blood bank.
- c) All phases of the selection of blood donors and of the collection, storage, processing, and administration of blood or blood components shall be the responsibility of the medical director.
- d) Provisions for medical care and hospital services for donors who sustain adverse reactions shall be established by written policy.
- e) A written standard operating procedure manual shall be maintained and followed

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

and shall include all steps in the collection, processing, compatibility testing, storage and distribution of blood and blood components for homologous and autologous transfusion purposes in accordance with FDA standards (21 CFR 60.100)(1987).

Section 490.720 Donors and Donor Blood – Criteria for Donor Selection

The following rules shall be applied on the day of donation by trained persons and results shall be recorded (See Section 490.440 of this Part).

- a) The following requirements shall apply to determine donor suitability.
 - 1) Prospective donors with a history of chronic disease of the heart, kidneys, lungs, liver, etc.; or with a history of cancer, except minor skin cancer; or abnormal bleeding tendencies; shall be excluded subject to evaluation by a physician on the day of donation.
 - 2) The interval between individual donations shall be at least 8 weeks.
 - 3) The amount of whole blood (not including anticoagulant) removed from a donor during a plasmapheresis procedure or in any 48-hour period, shall not exceed 1,000 ml unless the donor's weight is 80 kg (176 pounds) or greater. If the donor's weight is 80 kg or greater, the amount of whole blood removed during a plasmapheresis procedure or in any 48-hour period shall not exceed 1,500 ml. Within a 7-day period, the amount of whole blood removed shall not exceed 2,000 ml. unless the donor's weight is 80 kg (176 pounds) or greater, in which case it shall not exceed 2,400 ml.
 - 4) Whole blood donations shall be deferred for at least 48 hours after plasmapheresis.
- b) The donor shall be free of disease transmissible by blood transfusion as ascertained at the time of collection in accordance with the guide for donor requirements. (See subsection (c) of this Section).
- c) If the following requirements are not met, the donor shall be rejected.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) **General Appearance**
The donor shall appear to be in good health and free from acute respiratory diseases.
- 2) **Age**
Blood donor shall be between the ages of 17 through 75 (up to 76th birthday) provided:
 - A) that the donor is 17 years of age or older
 - B) after the 76th birthday, donors may be accepted at the discretion of the blood bank director if they have specific written consent from a physician within two (2) weeks before the date of donation, and they meet all other criteria for acceptability (See Section 490.40(c)(5) of this Part).
- 3) **Temperature**
The oral temperature shall not exceed 99.6 degrees Fahrenheit (37.5 degrees Centigrade)
- 4) **Hemoglobin or hematocrit**

The measurement of either value is acceptable.
 - A) The hemoglobin shall be no less than 12.5 grams per dl.
 - B) The hematocrit value shall be no less than 36 percent for females, and no less than 38 percent for males.
- 5) **Pulse**
The pulse shall reveal no pathological cardiac irregularity and shall be between 50 and 100 beats per minute.
- 6) **Blood Pressure**
The systolic blood pressure shall be between 90 and 180 mm of mercury, and the diastolic shall not exceed 100 mm of mercury.
- 7) **Pregnancy**

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Known existing pregnancy shall preclude donation. A prospective donor shall be excluded for 6 weeks postpartum.

- 8) Receipt of blood or blood components
Prospective donors who during the preceding six months have received blood or human blood components known to be a possible source of hepatitis, shall be excluded.
- 9) Infectious Diseases
A donor shall be free from infectious diseases known to be transmissible by blood insofar as can be determined by usual examinations and history as indicated below.
 - A) Viral Hepatitis
 - i) Prospective donors with a history of viral hepatitis shall be excluded.
 - ii) A prospective donor shall be excluded permanently if the donor's blood was the only unit of blood or blood component administered to a patient who within six months developed posttransfusion hepatitis and who received no other blood derivative known to transmit vital hepatitis and there was no other probable source of infection.
 - iii) A prospective donor shall be excluded permanently if the donor has a history of a reactive test for hepatitis B surface antigen.
 - iv) When hepatitis has developed after transfusion of blood, blood components, or derivatives from multiple donors, those donors who have not been previously suspected of hepatitis need not be rejected as future donors of whole blood. Each situation should be evaluated individually by the blood bank physician.
 - B) Travelers who have been in areas considered endemic for malaria by the Malaria Branch, Centers for Disease Control, U.S.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Department of Health and Human Services, may be accepted as regular blood donors six months after return to the nonendemic area, providing they have been free of unexplained febrile illnesses and have not taken antimalarial drugs. Prospective donors who have had malaria shall be deferred for three years after becoming asymptomatic and after cessation of therapy. Prospective donors who have taken antimalarial prophylaxis or who have been in an endemic area shall be deferred for three years after cessation of therapy or after departure from the area if they have been asymptomatic in the interim. Immigrants or visitors from endemic areas may be accepted as blood donors three years after departure from the area if they have been asymptomatic in the interim. Donations to be used for the preparation of plasma, plasma components or derivatives devoid of intact red blood cells are exempted from these restrictions.

- C) Syphilis
A donor whose blood tests positive for syphilis shall be rejected. Prospective donors may be acceptable when they become seronegative upon approval by the blood bank medical director.

- D) Tuberculosis
Prospective donors with clinically active tuberculosis are unacceptable. Prospective donors with a positive tuberculin skin test, but without underlying medical conditions, may be accepted if they have not taken prophylactic medication during the preceding 48 hours.

- E) HIV Infection
 - i) Blood and blood components which have been found reactive when tested for evidence of infection with the human immunodeficiency virus (HIV) or any other identified causative agent of AIDS shall be rejected for blood donation in accordance with Section 490.750(b).

 - ii) Prospective donors who request that their blood be tested for evidence of infection with HIV shall be referred to a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

HIV Counseling and Testing Center designated by the Illinois Department of Public Health.

- 10) Immunizations or vaccinations:
 - A) Persons recently immunized with toxoids and killed virus, bacterial and rickettesial vaccines are acceptable, if they are symptom-free and afebrile. These include vaccines against hepatitis B, tetanus, diphtheria, pertussis, typhoid, paratyphoid, cholera, typhus, Rocky Mountain spotted fever, influenza, polio (injection) and plague. The same rules apply for rabies vaccine (duck embryo or human diploid) unless the vaccination has been given following a bite by a rabid animal in which case the donor is deferred until 1 year after the bite.
 - B) After vaccination for smallpox, donors are acceptable when the scab has fallen off or 2 weeks after an immune reaction. Following inoculation with attenuated virus vaccines such as polio (oral), measles (rubeola), mumps or yellow fever, donors are deferred for 2 weeks; following inoculation for German measles (rubella), deferral is for 4 weeks.
 - C) Prospective donors shall be deferred for 12 months after receiving Hepatitis B Immune Globulin (HBIG).
- 11) Donor skin
The skin at the venipuncture site shall be free of lesions and no tattoo was performed any place on the body within six months prior to donation.
- 12) Alcohol, narcotics
Obvious stigmata of narcotic or alcoholic habituation or intoxication shall exclude a donor.
- 13) Oral medication
History of recent drug therapy shall be evaluated by a physician since the indication for such treatment may be cause for donor rejection. Exceptions to this requirement include ingestion of vitamins or oral contraceptives.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 14) Therapeutic bleedings
Any blood withdrawn from a person for a therapeutic purpose and intended for future homologous transfusion shall be labeled to indicate the donor's disease. Therapeutic bleedings shall be performed only at the written request of a person's physician. The blood bank medical director shall decide whether the person will be bled in the blood bank. The use of this blood for transfusion purposes shall be determined by the physician in charge of the blood bank and of the physician attending the prospective recipient.
 - 15) Weight and amount of blood
Donors weighing 110 lbs (50 kg) or more may ordinarily give 450 plus or minus 45 ml of blood, in addition to pilot samples which shall not exceed 30 ml. Donors weighing less than 110 lbs may be bled proportionately less in a reduced volume of anticoagulant, except that it is not necessary to reduce the amount of anticoagulant calculated for 450 ml of blood when the amount of blood drawn is 300 ml to 405 ml. Prospective donations of blood exceeding the recommended amounts shall be subject to evaluation by a physician.
 - 16) Medical discretion
Any of the above criteria may be waived or modified by the medical director and the donor's physician, for certain medical indications related to the therapy of the donor.
- d) Before any blood is collected, all donors shall be informed that:
- 1) Each unit of donated blood will be tested for the presence of antibodies to HIV or any other identified causative agent of AIDS.
 - A) All donors shall be informed about the following:
 - i) The meaning of the HIV test results, such as the purpose, potential use, limitations of the test and test results; the use of additional confirmatory testing and the related notification procedures; and the availability of referrals for further information and counseling.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- ii) The opportunity to refuse HIV testing. If testing is refused, then the person will not be accepted as a donor.
- B) Collection of a donor's blood is not permitted without signed written consent of the donor allowing disclosure of the test results to the donor. However, the written informed consent required by AIDS Confidentiality Act Ill. Rev. Stat 1987, ch. 111½, par. 7301 et seq.) and 77 Ill. Adm. Code 697.120 is not necessary because blood donors are specifically required by law to be tested.
- 2) Persons infected with HIV are potentially infectious to persons with whom they have contact through sexual relations or the sharing of blood or blood components. Persons with increased risk (high risk) of being infected with HIV virus must not donate blood, except for the purpose of autologous transfusion. High risk persons include the following:
- A) persons who have signs and symptoms suggestive of Acquired Immunodeficiency Syndrome (AIDS) (e.g. a combination of two or more than the following: unexpected weight loss of greater than 10% of body weight, chronic fever, chronic lymphadenopathy, night sweats or chronic diarrhea);
 - B) persons who have had sexual contact with the HIV infected-persons;
 - C) males who have sexual contact with a male anytime since 1977;
 - D) persons who have immigrated from countries where heterosexual activity is thought to play a major role in transmission of HIV infection, such as Central Africa and Haiti anytime since 1977 as recognized by the Centers for Disease Control;
 - E) persons who are (were) present (past) intravenous drug users by self injection;
 - F) hemophiliacs; or
 - G) current or former sexual partners of any of the above.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 3) Confirmed, available, test results showing evidence of HIV infection (e.g. Western blot assay or Indirect Fluorescent Antibody tests) will be disclosed in a confidential manner to the donor's physician or the donor no later than 55 days after the date of donation as described in Section 490.750(b) of this Part.

Section 490.730 Collection of Blood

- a) The collection of blood from the donor shall meet FDA standards (21 CFR 640) (1987).
- b) Directed Blood Donations
Pursuant to Section 7-106 of the Blood Bank Act:
 - 1) *Each blood bank licensed under the Blood Bank Act shall allow a recipient of blood to designate a donor of his choice under the following conditions:*
 - A) *the recipient or someone on his behalf, has solicited the donors;*
 - B) *the designated donor consents to such donation;*
 - C) *the designated donor's blood may be obtained in sufficient time to meet the health care needs of the recipient;*
 - D) *the designated donor is qualified to donate blood under the criteria for donor selection promulgated by the Department of Public Health under the Blood Labeling Act;*
 - E) *the blood of the donor is acceptable under the requirements of Section 490.750 and for the patient's medical needs.*
 - 2) *Blood donated for such designated use shall be reserved for the designated recipient; however if it has not been used within 7 days from the day of donation, it may be used for any other medically appropriate purpose as determined by the blood bank director.*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 3) This Section shall not limit other procedures blood banks may establish to enable directed donations.

Section 490.740 Labeling

Containers holding finished products from the blood bank for infusion into humans shall be labeled in accordance with FDA standards (21 CFR 606)(1987).

Section 490.750 Laboratory Testing

All laboratory testing shall be performed on a pilot sample specimen of blood taken from the donor at the time of collection of the unit of blood and before the blood or blood components leave the blood bank. The required tests are listed below.

- a) Testing for syphilis, blood grouping, Rh factors, and hepatitis B surface antigen shall be performed in accordance with FDA standards (21 CFR 610.40 and 640.5)(1987). Testing for HTLV-1 shall be performed, using a test licensed by the FDA, in accordance with the instructions accompanying the test kit. Blood or blood components intended for transfusion purposes, shall not leave the blood bank unless the tests for HTLV-1, syphilis and hepatitis B surface antigen are negative, unless, an exception is made in accordance with FDA standards (21 CFR 606.121 and 640.2)(1987). The test for HTLV-1 shall be included in the exceptions made in accordance with these FDA standards.
- b) HIV Testing
 - 1) All donor blood shall be tested for evidence of infection with the HIV virus by using a test approved by the United States Food and Drug Administration (FDA) (e.g. an enzyme-linked immunosorbent assay (ELISA)). A unit of blood which is found to be reactive by two of three ELISA tests (according to the package insert – product circular) shall not be used for transfusion or for production of components for transfusion or injection and shall be disposed of in accordance with Section 490.330 of this Part. All units of blood which are found to be reactive shall be retested using a confirmatory test approved by FDA or the Department (e.g. Western blot assay or indirect Fluorescent Antibody tests).
 - 2) In the event that blood is transfused before completion of the tests for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

evidence of HIV infection and if the tests are subsequently confirmed positive, the recipient's physician must be notified within 24 hours either verbally or in writing, by the medical director of the blood bank or the blood bank director or his designate.

- 3) A donor whose blood has yielded a positive confirmatory result (e.g. Western blot assay or Indirect Fluorescent Antibody tests) shall be notified of that test result in accordance with the following requirements in subsection (b)(4) of this Section.
- 4) Notification Requirements:
 - A) The donor shall be advised to contact the blood bank for an appointment to discuss the results of the tests. If initial notification is made by mail, the correspondence must be general in nature (e.g. no references to specific diseases or test procedures shall be made). If the donor does not respond to the initial notification by mail, or if the blood bank chooses not to use such initial notification procedures, the donor shall be advised through certified mail with restricted delivery, messenger or personal visit to contact the blood bank for an appointment to discuss the test results.
 - B) the medical director of the blood bank or the medical director's designee who is knowledgeable about HIV infection including the possible medical and psychosocial aspects of such infection shall be available for a scheduled appointment with the donor at the earliest possible date requested by the donor and shall present and explain the results of HIV testing only in a person to person interview.
 - C) If the donor has not contacted the blood bank for an appointment as described in subsection (b)(4)(A) of this Section above or if the donor has failed to follow through with the scheduled appointment, the confirmed test result(s) shall be sent to the donor by certified mail with restricted delivery, messenger or personal visit accompanied by explanatory and referral information which has been provided by the Department;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- D) The above-described available test results shall be released to the donor or the donor's physician no later than 55 days after the date of donation;
 - E) If the donor expressly so requested in writing and provides the name and address of his or her physician, the results shall be sent to the physician by certified mail;
 - F) HIV test results shall be treated as confidential and shall be disclosed as authorized in writing by the donor or as otherwise authorized by the AIDS Confidentiality and Testing Code, 77 Ill. Adm. Code 697.140.
- c) Western Blot Assay Testing Procedure
All laboratories which conduct the Western blot assay shall comply with following requirements.
- 1) Western blot assay Testing Procedures
 - A) Western blot assay kits licensed by the United States Food and Drug Administration (FDA) shall be performed on specimens which have been found to be repeatably reactive using the enzyme-linked immunosorbent assay (ELISA) test. The laboratory shall perform a Western blot assay test to determine reactivity with viral polypeptides in accordance with manufacturer's recommendations or package insert.
 - B) When a Western blot assay kit that is not licensed by the FDA is utilized, the testing procedure must be able to demonstrate and reproduce in a second demonstration at least the viral polypeptides in accordance with recommendations of the Centers for Disease Control, Association of State and Territorial Public Health Laboratory Directors, or American Association of Blood Banks.
 - C) Western blots must have clear backgrounds and lack non-specific banding; and all banding should be distinct and uniform as well as reproducible.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- D) The final blots of non-licensed kits must be examined to determine if the antibodies reacted specifically with HIV polypeptides. Western blot interpretations shall be consistent with the manufacturer's recommendations or package insert.
- 2) Laboratory Certification and Quality Control
- A) The laboratory prior to using any given lot of a non-licensed Western blot kit, shall test all lot material with control sera consisting of negative (no reaction), weakly positive (some reaction but not strong), and positive (strong, very noticeable reaction) sera. The laboratory shall ensure that the reagent lots are correctly identified with the above control sera. Any and all reagents not meeting the laboratory's specified criteria established in accordance with the quality control system methodologies in Subpart K of the Illinois Clinical Laboratory Code (77 Ill. Adm. Code 450 Subpart K) shall not be utilized for testing.
 - B) The laboratory shall maintain internal viral Western blot quality control for all Western blot assays. All internal Western blot quality control results shall be maintained by the laboratory for review by the Department.
 - C) The laboratory shall participate in at least one proficiency testing program for ELISA and Western Blot screening and supplemental testing for viral antibodies offered by the College of American Pathologists, the American Association of Bioanalysts, or the Department. A copy of all proficiency testing evaluation reports shall be made available for review by the Department.
- d) Records – Quality Control
- 1) Records shall be maintained concurrently with performance of each laboratory procedure so steps can be clearly traced.
 - 2) All pilot samples shall be stored at 1 to 6 degrees Centigrade for at least seven days after transfusion or expiration date of the blood. When the blood is discarded the pilot tube need not be saved.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 3) **Equipment**
The temperature of water baths, heating blocks, Rh view boxes and incubators shall be checked daily to determine that the temperature meets the requirements set forth in the procedure manual (See 77 Ill. Adm. Code 450, Subpart J). Centrifuges used for serologic testing and for separation of blood components shall be calibrated to determine optimum time and force. (See Subpart E of this Part).
- 4) **Quality Control**
All laboratory procedures performed in the blood bank shall meet all applicable requirements of 77 Ill. Adm. Code 450, Subpart K.

Section 490.760 Blood Storage

- a) **Refrigerators and Freezers**
 - 1) The refrigerator compartment in which blood is stored shall contain only blood, blood components donor samples, or blood bank reagents. It shall be provided with a fan for circulating air.
 - 2) Refrigerators and freezer for storage shall have a system to monitor temperature continuously and to record the temperature at least every 4 hours.
 - 3) Whole Blood or non-frozen Red Blood Cell components shall be stored in a refrigerator with the sensor for the temperature recording system in a container holding no more than 250 ml of liquid with heat transfer characteristics similar to those of the blood and blood container (i.e. 10% glycerol in water).
 - 4) Alarm systems with audible signals shall be on all refrigerators and freezers. The alarm systems shall be set to activate when the temperature falls outside the acceptable 1 to 6 degrees Centigrade range.
 - 5) Written procedures shall delineate actions to be taken when a refrigeration system fails to maintain blood or blood components within the specified temperature range (See Section 490.40(c)(7) of this Part).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- b) Temperatures – containers – expiration dates
Expiration date is the last day on which the blood or blood component is considered useful for transfusion purposes. Whole blood, red blood cells, frozen red blood cells, washed and deglycerolized red blood cells, leukocyte poor red blood cells, single donor plasma, platelet concentrate, and any other blood component shall be stored within temperature ranges, in containers, and used before expiration dates as specified by Food and Drug Administration (FDA) (21 CFR 640)(1987).
- c) Reissue of blood
- 1) Blood which has been returned to the blood bank shall not be reissued unless the following conditions have been met.
 - A) The container closure has not been disturbed.
 - B) The blood has been continuously refrigerated at 1 to 10 degree Centigrade (preferable 1 to 6 degrees Centigrade).
 - C) Blood bank records indicate that the blood has been reissued.
 - D) The pilot tube or segment has remained attached to the container if the blood has left the premises of the issuing facility.
 - 2) If the blood has remained on the premises of the issuing facility, a removed pilot tube may be reidentified by the originally attached label and number which shall correspond with the number on the container.

Section 490.770 Preparation of Blood Components

Preparation of red blood cells, frozen red blood cells, deglycerolized red blood cells, leukocyte poor red blood cells, washed red blood cells, liquid plasma, fresh frozen plasma, cryoprecipitated AHF, platelet concentrate, granulocyte concentrate, and any other preparation separated from single units of whole blood and intended for use as final products for transfusion shall follow preparation, storage, and expiration date requirements as specified by FDA (21 CFR 640)(1987).

Section 490.780 Hemapheresis, Also Known as Plasmapheresis

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) Hemapheresis procedures for which the donor is paid, shall be performed only when a physician is physically present and responsible for all phases of hemapheresis. All other hemapheresis procedures shall be performed only when emergency medical care is available within 15 minutes. The medical director shall develop a written protocol specifying how emergency medical care will be available if an emergency should arise.
- b) Criteria of selection and care of the donors shall be those for whole blood donations. (See Section 490.720 of this Part). Hemapheresis of donors who do not meet the donor requirements shall be performed only when a physician who is aware of the health status of the donor has certified in writing that the donor's health permits hemapheresis.
- c) The consent of a prospective donor or parent or legal guardian shall be obtained after a physician or other medical director's designee explains the hazards of the procedure to the prospective donor in such a manner that he is offered an opportunity to refuse consent.
- d) Donor suitability, hemapheresis procedures, donor immunization, and laboratory testing shall meet the requirement specified by FDA (21 CFR 640)(1987).
- e) Therapeutic hemapheresis
 - 1) The medical director of the blood bank, in consultation with the patient's physician, shall decide if the procedure is to be performed, the appropriate location, replacement fluids to be used, and the need for special life-support procedures.
 - 2) There shall be a written procedure manual which describes the procedures used, as outlined in 21 CFR 640 (1987). Records shall contain patient identification, date and time when the procedure is performed, diagnosis, therapeutic procedure, hemapheresis method, amount of blood removed and returned, replacement fluids used, adverse reactions, and any medication administered.

Section 490.790 Autologous Blood and Blood Components

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Blood or blood components for autologous use shall meet all requirements established under Subpart G of this Part for blood for transfusion purposes, except that a blood bank may provide blood for autologous use when the blood or blood product is positive for hepatitis B surface antigen or syphilis only upon the written, signed and dated request of the patient's physician who is licensed to practice medicine in all of its branches.

SUBPART H: PROHIBITED PRACTICES

Section 490.810 Terms Not to be Used in Names of Blood Banks

The term "certified", "approved", "qualified", or any other comparable term, indicating departmental endorsement of the blood bank, shall not be incorporated in the name of any blood bank, nor shall such terms be used in connection with any blood bank.

Section 490.820 Prohibitions in Advertising and Announcements

Since licensing under the provision of the Act does not imply approval but serves merely as notice to the Department of the location of facilities and the character of program and services, there shall be no reference in any advertisement or announcements expressing or implying approval by the Department.

Section 490.830 Acceptance of Specimens and Reporting of Results

No blood bank shall accept specimens or report results except as provided in Sections 7-101 and 7-102 of the Act.

Section 490.840 Referral of Specimens for Examination

All specimens accepted by a blood bank shall be tested on its premises. However, specimens for infrequently performed tests or confirmatory tests or tests related to non-immunohematologic processing of blood for transfusion may be forwarded for examination to another blood bank licensed under this Act, or to a clinical laboratory licensed under the Illinois Clinical Laboratory Act, or to any blood bank specifically exempt from the Act (See Section 7-103 of the Act).

SUBPART I: RECORDS

Section 490.910 Records

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- a) Records shall be maintained concurrently with the performance of each step in the collection, processing, compatibility testing, storage and distribution of each unit of blood or blood component in accordance with FDA standards (21 CFR 606, Subpart I)(1987).
- b) Complete records in regard to each specimen examined shall be kept on file in the blood bank for not less than five years. Such records shall contain:
 - 1) Laboratory number or other identification of the specimen;
 - 2) The name or other means of identification of the person from whom the specimen was taken;
 - 3) The name of the licensed physician or other authorized person, clinical laboratory, or blood bank submitting the specimen;
 - 4) The date the specimen was collected and the date the specimen was received in the blood bank;
 - 5) When a specimen is forwarded to another clinical laboratory or blood bank for tests, the name, the date when the specimen was forwarded to such laboratory or blood bank, the date it was tested, and the date the report of the findings of the test was received from such laboratory or blood bank;
 - 6) In case the specimen is an unsatisfactory specimen, the condition of the specimen when received;
 - 7) The types and numbers of tests performed annually; and
 - 8) The result of the test conducted by the blood bank, the method used, the signature of the examiner.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Section 490.APPENDIX A License Application for Blood Banks

Section 490.EXHIBIT A Initial License Application for Blood Banks

ILLINOIS DEPARTMENT OF PUBLIC HEALTH
DIVISION OF LABORATORIES
2121 WEST TAYLOR STREET
CHICAGO, ILLINOIS 60612

INITIAL LICENSE APPLICATION FOR BLOOD BANKS

1. APPLICATION DATE: / /
Month Date Year

2. FACILITY IDENTIFICATION

A. Name of Laboratory

B. Address (Number and Street)

C. Address (City, State, Zip Code)

D. Telephone Number: /

E. County: Area Code

F. Hours of Operation: M ___ to ___ : T ___ to ___ : W ___ to ___ :
Th ___ to ___ : F ___ to ___ : Sa ___ to ___ : Su ___ to ___ .

3. OWNERSHIP

A. Check the appropriate box below:

Individual Partnership* Corporation** Trust

County Township City Other

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Specify

- B. List owner(s), title, and address below. Use an additional sheet if necessary.
 - *Partnership – Provide names of all partners and percent of interest.
 - **Corporation – Provide corporate name, names of officers and all stockholders owning 5 percent or more of stock, with an indication of percent of stock owned. If no stockholder owns more than 5 percent, so indicate below.

EXACT NAME(S) OF OWNER(S) – IF A COPORATION PROVIDE EXACT CORPORATE NAME)	%	ADDRESS
	INTEREST	

C. IF THE OWNER LISTED IN 3B IS A CORPORATION, INDICATE NAMES OF OFFICERS AND ALL STOCKHOLDERS OWNING 5% OR MORE OF STOCK	TITLE OF OFFICERS	ADDRESS

4. PERSONNEL – MEDICAL DIRECTOR(S)

- A. The director(s) must BE PRESENT in the blood bank EACH WEEK of operation, except for defined absences. Provide the name of each blood bank director and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

6. PERSONNEL OTHER THAN DIRECTORS OR SUPERVISORS

List the names of all technical personnel employed by this blood bank other than directors or supervisors. Use an additional sheet if necessary. A personnel form must be submitted for each individual. Use the codes below to indicate how each employee is functioning.

T = technologist TE = technician C = consultant P = phlebotomist PC = patient care

LAST NAME	FIRST NAME	INITIAL	FUNCTIONING AS:				
			T	TE	C	P	PC

7. PROGRAM AND SERVICES

Complete the attachment entitled "Program and Services". In accordance with Section 3-103 of the Illinois Blood Bank Act, the Department will issue a license to the applicant to operate a blood bank to provide the services and programs described in the application if the Department is satisfied that the applicant has complied with the provisions of the Illinois Blood Bank Act and rules and regulations pertaining thereto.

In accordance with Section 3-105 of the Illinois Blood Bank Act, you are required to notify the Department of any changes in the program or services within 30 days after the changes take place.

8. INFORMATION ITEM

A. PROFICIENCY TESTING INFORMATION

Regulations require the demonstration of proficiency in the performance of tests performed by the blood bank by means of participating in State-operated or State-approved proficiency testing programs. The Department recognizes the following as State-approved proficiency testing programs.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1. College of American Pathologists
5202 Old Orchard Road
Skokie, IL 60077-1034
Phone: (312) 966-5700
- 2. American Association of Bioanalysts
205 West Levee
Brownsville, Texas 78520
Phone: (800) 544-3081

B. SECTION 3-106 OF THE ILLINOIS BLOOD BANK ACT

"A license to conduct a blood bank shall be issued to the owner for the premises stated in the application. The owner shall be responsible for the provision at all times of laboratory direction by a Medical Director who meets the provisions of this Act and the rules and regulations pertaining thereto: for notifying the Department prior to any change in the medical directorship; and for forwarding necessary documentation to the Department to establish that the Medical Director is qualified to direct that blood bank. The owner shall be responsible to the Department for the maintenance and conduct thereof or for any violations of the provisions of this Act obtained for each location. A license shall be valid only in the possession of the persons to whom it is issued and shall not be a subject of sale, assignment or transfer, voluntary or involuntary nor shall a license be valid for any premises other than those for which the license is issued. However, a new license may be secured for the new name, location or owner prior to the actual change provided the contemplated change Appendix A License Application for Blood Banks is in compliance with the provisions of this Act and regulations pertaining thereto. The fee for the issuance of such new license shall be \$100."

9. AFFIDAVIT

State of _____ County of _____

The undersigned owner or authorized officer and blood bank medical director(s) of the facility described herein, being duly sworn on oath, depose(s) and say(s) that the statements contained in the foregoing application are true and correct to the best of _____ knowledge and belief; that no owner has been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the operation or a blood bank; and that _____ has (have) read and understand(s) this application and affidavit.

NAME

TITLE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Signature: _____

Type Name: _____

Subscribed and sworn to
before me this ____ day
of _____, 19____.

Notary Public In and For Said State

NOTE:

This completed application along with the required license fee are to be returned to:

Fiscal and Management Services
Illinois Department of Public Health
Attn: Validation Unit
535 W. Jefferson Street
Springfield, IL 62761

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

BLOOD BANK

PROGRAM SERVICES

BLOOD BANK NAME _____ DATE _____

- A. Enter the annual volume on the lines to the left of each procedure performed.
- B. Where requested, please provide the name of major pieces of equipment and the name of the manufacturer of equipment used in providing tests and services.

		<u>0210 Syphilis Serology</u>
_____	86592	VDRL, RPR, RST, ART
		<u>0220 Other Serology</u>
_____	86287	Hepatitis B antigen (HB _s Ag)
_____	86289	Hepatitis B antibody (anit-HBc)
_____	86290	HIV antibody (anti-HIV)
_____	86291	CMV antibody (anti-CMV)
_____	86999	Unlisted immunology procedure (Briefly describe)

LIST MAJOR EQUIPMENT USED IN 0210 AND 0220 ABOVE

		<u>0310 Chemistry</u>
_____	84449	Alanine aminotransferase (ALT)
_____	84460	Transaminase, glutamic pyruvic (SGPT)
_____	84999	Unlisted chemistry procedures (Briefly describe)

LIST MAJOR EQUIPMENT USED IN 0310 ABOVE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

0400 Hematology

_____ 85014	Hematocrit
_____ 85018	Hemoglobin
_____ 85999	Unlisted hematology (Briefly describe)

LIST MAJOR EQUIPMENT USED IN 04000510 Blood Grouping

_____ 86080	Blood Typing, ABO
_____ 86082	Blood Typing, ABO and Rho(D)
_____ 86090	M+N typing
_____ 86095	Blood typing, RBC antigens other than ABO or Rho(D)
_____ 86105	Rh genotyping

0520 Antibody Identification

_____ 86008	Antibody, titer
_____ 86016	Antibodies, RBC, saline high protein

0530 Compatibility testing

_____ 86068	Blood crossmatch, complete (typing antibody screen-recipient and donor)
_____ 86075	Blood crossmatch, minor only

0540 Immunohematology, other

_____ 86031	Antihuman globulin test, direct (Coombs)
_____ 86032	Antihuman globulin test, (indirect Coombs)
_____ 86201	Cryoprecipitate, prep.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

_____	86265	Frozen blood, prep.
_____	86346	Leukocyte poor blood, prep.
_____	86389	Plasmapheresis
_____	86392	Platelet concentrate
_____	86427	Red blood, cells, packed
_____	86500	Unlisted immunochemistry procedure (Briefly describe)

LIST MAJOR EQUIPMENT USED IN 0510, 0530, AND 0540

DIRECT PATIENT SERVICES (please list below)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Section 490.APPENDIX A License Application for Blood Banks

Section 490.EXHIBIT B Renewal License Application for Blood Banks

ILLINOIS DEPARTMENT OF PUBLIC HEALTH
DIVISION OF LABORATORIES
2121 WEST TAYLOR STREET
CHICAGO, ILLINOIS 60612

RENEWAL LICENSE APPLICATION FOR BLOOD BANKS

1. DATE OF APPLICATION

Month Day Year

2. NAME/ADDRESS/HOURS OF OPERATION

A. If either the name or address on the mailing label above is incorrect, indicate corrections and effective date(s) below

Month Day Year

New Name Effective Date

New Address (Number and Street) Effective Date

New address (City, State, Zip Code)

B. Hours of Operation: M ___ to ___ : T ___ to ___ : W ___ to ___ : Th ___ to ___ : F ___ to ___ : Sa ___ to ___ : Su ___ to ___ .

3. OWNERSHIP

A. Check the appropriate box below:

Individual Partnership* Corporation** Trust

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

County Township City Other _____

B. List owner(s), title, and address below. Use an additional sheet if necessary.

*Partnership – Provide names of all partners and percent of interest.

**Corporation – Provide corporate name, names of officers and all stockholders owning 5 percent or more of stock, with an indication of percent of stock owned. If no stockholder owns more than 5 percent, so indicate. License Application for Blood Banks

EXACT NAME(S) OF OWNER(S) – (IF A

CORPORATION, PROVIDE EXACT

CORPORATE NAME

%

INTEREST

ADDRESS

C. If the owner under 3B is a corporation, indicate names of officers and all stockholders owning 5% or more of stock

TITLE
OF
OFFICES

ADDRESS

D. If a change in ownership (item 3B above) has occurred since the last license was issued, indicate below the effective date for that change.

Month / Day / Year

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- E. List the names and addresses of other laboratories or blood banks located in Illinois which have the same ownership. If none, indicate N/A. Use additional sheets if necessary.

<u>NAME</u>	<u>ADDRESS</u>
_____	_____
_____	_____

4. PERSONNEL – MEDICAL DIRECTOR(S)

- A. The director(s) must BE PRESENT in the blood bank EACH WEEK of operation, except for defined absences. Provide the name of each blood bank medical director and indicate his/her weekly regularly scheduled hours in the blood bank. Use an additional sheet if necessary.

LAST NAME	FIRST NAME	Hours e.g. 8 AM – 11 AM						
		M	T	W	Th	F	Sa	S
_____	_____							

- B. If a medical director has RESIGNED or has been HIRED after the last license was issued, list below his/her name and the effective date. A personnel form must be submitted when a director is hired. Use an additional sheet if necessary.

Name	/	/	Year
Name	Month	Day	Year

License Application for Blood Banks

- C. For each medical director, list each laboratory or blood bank (hospital, independent, or industrial) which he/she is associated with as director. Use an additional sheet if necessary.

LAST NAME OF DIRECTOR	NAME OF FACILITY	ADDRESS OF FACILITY
_____	_____	_____
_____	_____	_____

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

5. PROGRAM AND SERVICES

Complete the attachment entitled "Program and Services". In accordance Exhibit B Renewal License Application for Blood Banks with Section 3-103 of the Illinois Blood Bank Act, the Department will issue a license to the applicant to operate a blood bank to provide the services and programs described in the application if the Department is satisfied that the applicant has complied with the provisions of the Illinois Blood Bank Act and rules and regulations pertaining thereto.

In accordance with Section 3-105 of the Illinois Blood Bank Act, you are required to notify the Department of any changes in the program or services within 30 days after the changes take place.

6. INFORMATIONAL ITEM

A. The Department recognizes the following as State-approved proficiency testing programs. Demonstration of proficiency by means of participation in State operated and/or State approved proficiency testing programs is required for laboratory tests performed by the blood bank.

- | | |
|---|---|
| 1. College of American Pathologists
5202 Old Orchard Road
Skokie, IL 6007-1034
Phone: (312) 966-5700 | 2. American Association of Bioanalysts
205 West Levee
Brownsville, Texas 78520
Phone: 800-544-3081 |
|---|---|

B. SECTION 3-106 OF THE ILLINOIS BLOOD BANK ACT (EFFECTIVE JULY 1, 1988)

"A license to conduct a blood bank shall be issued to the owner for the premises stated in the application. The owner shall be responsible for the provision at all times of laboratory direction by a Medical Director who meets the provisions of this Act and the rules and regulations pertaining thereto: for notifying the Department prior to any change in the medical directorship; and for forwarding necessary documentation to the Department to establish that the Medical Director is qualified to direct that blood bank. The owner shall be responsible to the Department for the maintenance and conduct thereof or for any violations of the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

provisions of this Act and regulations pertaining thereto. A separate license must be obtained for each location. A license shall be valid only in the possession of the persons to whom it is issued and shall not be a subject of sale, assignment or transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which issued, or for any name of the blood bank other than that under which the license is issued. However, a new license may be secured for the new name, location or owner prior to the actual change provided the contemplated change is in compliance with the provisions of this Act and regulations pertaining thereto. The fee for the issuance of such new license shall be \$100.

7. Affidavit

State of _____ County of _____

The undersigned owner or authorized officer and blood bank medical director(s) of the facility described herein, being duly sworn on oath, depose(s) and say(s) that the statements contained in the foregoing application are true and correct to the best of _____ knowledge and belief; that no owner has been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the operation or a blood bank; and that _____ has (have) read and understand(s) this application and affidavit.

NAME

TITLE

Signature: _____

Type Name: _____

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

Signature:

Type Name:

Subscribed and sworn to
before me this ____ day
of _____, 19____.

Seal

NOTE:

This completed application along with the required license fee are to be returned to:

Fiscal and Management Services
Illinois Department of Public Health
Attn: Validation Unit
535 W. Jefferson Street
Springfield, Illinois 62761

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Entries, Subscriptions, and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1413
- 3) Section Number: 1413.114 Proposed Action: Amendment
- 4) Statutory Authority: Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking will permit racetracks that conduct thoroughbred racing to uncouple same owner entries in any thoroughbred race. The result would be larger field sizes, increased betting, and greater revenue to the Board.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace any emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 5-700
Chicago IL 60601

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

312/814-5017
Mickey.ezzo@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Board did not anticipate the need for this rulemaking at the time the agendas were published.

The full text of the Proposed Amendment is the same as the text that appears in the Emergency Amendment published in this issue of the *Illinois Register* on page 3435.

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Elevator Safety Rules
- 2) Code Citation: 41 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1000.60	Amendment
1000.80	Amendment
1000.160	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35]
- 5) Effective Date of Rule: February 19, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including incorporations by reference, is on file at the Office of the State Fire Marshal, 1035 Stevenson Drive, Springfield IL, and is available for public inspection at that location.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 19601; October 10, 2014
- 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? None requested
- 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: These amendments update the nationally recognized safety standards that are incorporated by reference in the Elevator Safety

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

Rules. This rulemaking also makes minor updates to the language in Section 1000.80 to conform the language in that Section to amendments to the Act made by PA 98-1090 (effective August 26, 2014). Finally, the rulemaking updates cross-references to the applicable hearing rules.

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

Bob Capuani
Elevator Safety Division
Office of the Illinois State Fire Marshal
James R. Thompson Center
100 W. Randolph Street
Suite 4-600
Chicago IL 60601

312/814-8734

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

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER II: ELEVATOR SAFETY REVIEW BOARDPART 1000
ILLINOIS ELEVATOR SAFETY RULES

Section	
1000.10	Purpose of this Part
1000.20	Applicability
1000.30	Definitions
1000.40	Local Regulation
1000.50	Elevator Safety Review Board
1000.60	Adoption of Nationally Recognized Safety Codes
1000.70	Variance and Appeal
1000.75	New Technology
1000.80	Licensure and Registration Requirements
1000.90	Application for License or Registration
1000.100	License and Registration Fees
1000.110	Renewal of License
1000.120	Registration of Conveyances
1000.130	Permits
1000.140	Conveyance Inspection
1000.145	Request for Investigation
1000.150	Certificate of Operation
1000.160	Administrative Hearing
1000.170	Administrative Procedures
1000.180	Service or Inspection of Non-Compliant Conveyances
1000.190	Conveyance Maintenance, Repair, and Upgrade History

AUTHORITY: Implementing and authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].

SOURCE: Adopted by emergency rule at 30 Ill. Reg. 13186, effective July 21, 2006, for a maximum of 150 days; emergency expired December 17, 2006; adopted at 31 Ill. Reg. 7043, effective April 24, 2007; amended at 32 Ill. Reg. 8377, effective May 27, 2008; amended at 33 Ill. Reg. 5750, effective April 2, 2009; amended at 36 Ill. Reg. 13131, effective October 1, 2012; amended at 39 Ill. Reg. 3417, effective February 19, 2015.

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 1000.60 Adoption of Nationally Recognized Safety Codes

- a) All conveyances shall be designed, constructed, installed, operated, inspected, tested, maintained, altered and repaired in accordance with the following standards and safety codes:
- 1) American Society of Mechanical Engineers (ASME)
Three Park Avenue
New York NY 10016-5990
 - A) Safety Code for Elevators and Escalators (ASME A17.1-~~20132010~~/CSA B44-~~201340~~) and Performance-Based Safety Code for Elevators and Escalators (ASME A17.7-2007/CSA B44.7-07);
 - B) Safety Code for Existing Elevators and Escalators (ASME A17.3-2005), but only as required under Section 35(h) and (i) of the Act and subsection (d) of this Section;
 - C) Safety Standard for Platform Lifts and Stairway Chairlifts (ASME A18.1-~~20112008~~);
 - D) Standard for the Qualification of Elevator Inspectors (ASME QEI-1-~~20132010~~).
 - 2) American Society of Civil Engineers (ASCE)
1801 Alexander Bell Drive
Reston VA 20191-4400

Automated People Mover Standards (~~ANSI/ASCE/T&DI 21-13, Part 1-2005/2006, ASCE 21, Parts 2 through 4 2008~~).
- b) All the materials incorporated by reference in this Section are incorporated as of the date specified and include no later editions or amendments.
- c) *The Board shall adopt, or amend and adopt, the latest editions of the standards referenced in this Section within 12 months after the effective date of the standards.* [225 ILCS 312/35(a)]

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- d) Upgrade Requirements for Existing Conveyances
- 1) *Notwithstanding anything else in this Part, the following upgrade requirements of the 2007 edition of the Safety Code for Elevators and Escalators (ASME A17.1) and the 2005 edition of the Safety Code for Existing Elevators (ASME A17.3) must be completed by January 1, 2015, but OSFM or the Local Administrator may not require their completion prior to January 1, 2013:*
 - A) *Restricted opening of hoistway doors or car doors on passenger elevators in accordance with ASME A17.3-2005;*
 - B) *Car illumination in accordance with ASME A17.3-2005;*
 - C) *Emergency operation and signaling devices in accordance with ASME A17.3-2005;*
 - D) *Phase reversal and failure protection in accordance with ASME A17.3-2005;*
 - E) *Reopening device for power operated doors or gates in accordance with ASME A17.3-2005;*
 - F) *Stop switch pits in accordance with ASME A17.3-2005; and*
 - G) *Pit ladder installation in accordance with Section 2.2.4.2 of ASME A17.1-2007.*
 - 2) *In the event that a conveyance regulated by this Part is altered, the alteration shall comply with ASME A17.1-2010/CSA B44-10.*
 - 3) *Notwithstanding anything else in this Section, the firefighter's emergency operation and the hydraulic elevator cylinder, including the associated safety devices outlined in Section 4.3.3(b) of ASME A17.3-2005, are not required to be upgraded unless:*
 - A) *There is an alteration;*

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) *The equipment fails; or*
 - C) *Failing to replace the equipment jeopardizes the public safety and welfare as determined by the Local Administrator or the Board.*
[225 ILCS 312/35(h) and (i)]
- e) Non-Mandatory Guidelines. It is recommended that all conveyances be inspected and tested in accordance with the following recommended practices. The following list should not be interpreted as excluding other practices recommended by equipment manufacturers.

American Society of Mechanical Engineers (ASME)
Three Park Avenue
New York NY 10016-5990

Guide for Inspection of Elevators, Escalators, and Moving Walks (ASME
A17.2-[20122010](#))

(Source: Amended at 39 Ill. Reg. 3417, effective February 19, 2015)

Section 1000.80 Licensure and Registration Requirements

- a) Qualifications for Elevator Mechanic License, Limited Elevator Mechanic License or Temporary Limited Elevator Mechanic License
 - 1) Elevator Mechanic License
Section 20(a) of the Act states that *no person shall erect, construct, wire, alter, replace, maintain, remove, or dismantle any conveyance contained within buildings or structures in the jurisdiction of this State unless he or she possesses an elevator mechanic license.*
 - A) *No license shall be granted to any person who has not paid the application fee required by Section 1000.100(a).*
 - B) *No license shall be granted to any person who has not proven his or her qualifications and abilities. Applicants for an elevator*

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

mechanic license must demonstrate one of the following qualifications:

- i) *an acceptable combination of documented experience and education credits consisting of:*
 - *not less than 3 years work experience in the elevator industry, in construction, maintenance, or service and repair, as verified by current and previous employers licensed to do business in this State or in another state if the Board deems that out-of-state experience equivalent; and*
 - *satisfactory completion of a written examination administered by the Elevator Safety Review Board or its designated provider, testing understanding of this Part and the State codes incorporated in Section 1000.60; or*
 - ii) *a certificate of successful completion of the mechanic examination of a nationally recognized training program for the elevator industry, such as the National Elevator Industry Educational Program or its equivalent; or*
 - iii) *a certificate of completion of an elevator mechanic apprenticeship program, with standards substantially equal to those of the Act, registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor; or*
 - iv) *a valid license from a state having standards substantially equal to those of this State. [225 ILCS 312/45]*
- 2) Limited Elevator Mechanic License
- A) No license shall be granted to any person or firm that has not paid the application fee required by Section 1000.100(h).

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- B) Qualifications for a limited elevator mechanic license shall be the same as for an elevator mechanic license, with the exception that qualifying work experience shall consist of work performed on specific ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act and this Part.
- 3) **Temporary Limited Elevator Mechanic License**
OSFM may issue a temporary limited elevator mechanic license to an individual to perform work on a specific type of conveyance described in ASME A18.1. The license shall be issued for 30 days upon application attesting that there are no licensed personnel available to perform elevator work for the specific type of conveyance. The application shall also contain the certification of a licensed limited elevator contractor or licensed elevator contractor certifying that the individual is qualified to perform the work. Proof of competency cited in the certification must include at least 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State. The license shall be valid only while the person is employed by the licensed limited elevator contractor or licensed elevator contractor that certified the individual as qualified. The applicant shall furnish any proof of competency that OSFM may require and must obtain a permanent license within one year. [225 ILCS 312/45(g)]
- b) **Elevator Industry Apprentice or Helper Registration**
- 1) A person who is not licensed as an elevator mechanic or limited elevator mechanic may work as an elevator industry apprentice or helper if he or she is registered as an apprentice or helper by OSFM and works under the general supervision of a licensed elevator mechanic or licensed limited elevator mechanic.
- 2) No person shall be registered as an elevator industry apprentice or helper who has not paid the registration fee required by Section 1000.100(k).

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) All elevator mechanic apprentices shall be registered with an apprenticeship or training program approved by the Bureau of Apprenticeship and Training, U.S. Department of Labor.
 - 4) Elevator industry apprentices and helpers shall register with OSFM by submitting, on a form provided by OSFM, the following information:
 - A) Name, address and telephone number of the applicant.
 - B) Whether the applicant is registering as an apprentice or as a helper.
 - C) If an apprentice, the name and contact information for the apprenticeship or training program with which the apprentice is registered.
 - 5) Upon determination that the applicant for registration meets all the requirements of the Act and this Part, OSFM will provide the applicant with an elevator industry apprentice or helper registration card.
- c) Qualifications for a Temporary Elevator Mechanic License
- 1) No license shall be granted to any person who has not paid the application fee required by Section 1000.100(f).
 - 2) *A licensed elevator contractor shall notify OSFM when there are no licensed personnel available to perform elevator work and may request that the OSFM issue temporary elevator mechanic licenses to persons certified by the contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision.*
 - 3) A person for whom a contractor requests a temporary elevator mechanic license shall show proof of competency by documenting 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 4) *A temporary elevator mechanic license shall recite that it is valid for a period of 30 days from the date of issuance and only while the elevator mechanic is employed by the licensed elevator contractor that certified the individual as qualified. [225 ILCS 312/45(e)]*
 - 5) *A temporary elevator mechanic license shall be renewable as long as the shortage of license holders continues. [225 ILCS 312/45(e)]*
- d) Qualifications for Emergency Elevator Mechanic License
- 1) No application fee is required for an individual applying for an emergency elevator mechanic license or for the renewal of that license.
 - 2) *Whenever an emergency exists in the State due to disaster, act of God, or work stoppage and the number of persons in the State holding elevator mechanic licenses is insufficient to cope with the emergency, any person certified by a licensed elevator contractor or licensed limited elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from OSFM within 5 business days after commencing work requiring a license.*
 - 3) *The applicant shall furnish proof of competency by submitting to OSFM documentation of 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.*
 - 4) *An emergency mechanic license is valid for 30 days from the date issued and for such particular elevators or geographical areas as OSFM may designate. The emergency license entitles the licensee to the rights and privileges of an elevator mechanic license issued under subsection (a).*
 - 5) *OSFM shall renew an emergency elevator mechanic license during the existence of an emergency. [225 ILCS 312/45(d)]*
- e) Qualifications for Elevator Inspector License

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) *No person shall inspect any conveyance within buildings or structures, including, but not limited to, private residences, unless he or she has an inspector license [225 ILCS 312/20(b)].*
 - 2) *No elevator inspector license shall be granted to any person who has not paid the application fee required by Section 1000.100(b).*
 - 3) *No inspector's license shall be granted to any person, unless he or she has been certified as meeting the requirements of ASME QEI-1 by a nationally or internationally recognized independent organization concerned with personnel certification~~proves to the satisfaction of OSFM that he or she meets the current ASME QEI-1, Standard for the Qualifications of Elevator Inspectors.~~ [225 ILCS 312/50]*
 - 4) *To be licensed as an elevator inspector, the applicant must have attained QEI certification (see Section 1000.60(a)(1)(D)). An elevator inspector shall notify OSFM within 24 hours after suspension, termination or expiration of his/her QEI certification. No inspector shall perform any inspection covered by the Act without a current QEI certification.*
 - 5) *All elevator inspector license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.*
- f) **Qualifications for Elevator Contractor License**
Section 40(a) of the Act requires that any person *wishing to engage in the business of installing, altering, repairing, servicing, replacing, or maintaining elevators, dumbwaiters, escalators, or moving walks within this State* must be licensed.
- 1) *No license shall be granted to any person or firm unless the application fee required by Section 1000.100(d) is paid.*
 - 2) *No license shall be granted to any person or firm who has not proven the required qualifications and abilities. An applicant must be individually licensed as an elevator mechanic under the Act, perform the work set forth*

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

in Section 20(a) of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act or, in the case of a firm, employ a person who is individually licensed as an elevator mechanic under the Act, perform the work set forth in Section 20(a) of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act. [225 ILCS 312/55]

- 3) All licensed elevator contractors must provide notice to OSFM at least 10 days in advance of any substantial alteration or cancellation of an insurance policy required by Section 100 of the Act. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
 - 4) *If the State of Illinois, a unit of local government, or an institution of higher education maintains in its employ licensed or limited licensed elevator mechanics who maintain only conveyances owned or leased by that entity, the employing entity is not required to be licensed as a contractor under this Section and none of the provisions of the Act concerning licensed contractors shall apply to these entities. [225 ILCS 40(a)]*
- g) Qualifications for a Limited Contractor License
- 1) No license shall be granted to any person or firm unless the application fee required by Section 1000.100(e) is paid.
 - 2) Qualifications for a limited contractor license shall be the same as for an elevator contractor license with the exception that work experience shall consist of work performed on ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act, and this Part.
- h) Qualifications for Elevator Inspection Company License
- 1) No company, limited liability company, corporation, not for profit corporation, partnership, limited partnership, sole proprietorship, or any other business organization authorized by law shall inspect or cause an employee to inspect any conveyance within buildings or structures,

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

including, but not limited to, private residences, unless the company has an inspection company license.

- 2) *No elevator inspection company license shall be granted to any person who has not paid the application fee required by Section 1000.100(c). [225 ILCS 312/50]*
 - 3) No inspection company license shall be granted to any company unless the company proves to the satisfaction of OSFM that one or more officers of the company meet the current ASME QEI-1, Standard for the Qualification of Elevator Inspectors. To be licensed as an elevator inspector, the applicant must have attained QEI certification (see Section 1000.60(a)(1)(D)).
 - 4) An elevator inspection company shall notify OSFM within 24 hours after suspension, termination or expiration of the officer's QEI certification. No inspection company shall perform any inspection covered by the Act without at least one officer possessing a current QEI certification and an Illinois inspector license and the company possessing a valid elevator inspection company license.
 - 5) All elevator inspection company license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
- i) Miscellaneous Requirements
- 1) No licensee shall work on non-registered or non-permitted conveyances covered by the Act, except for those conveyances exempted from registration by the Act or Section 1000.120(g).
 - 2) All license holders are required to report violations of the Act, this Part and the standards listed in Section 1000.60 to OSFM.

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) Each licensee shall have his/her valid license, and each elevator industry apprentice or helper shall have his/her valid registration card, in his/her possession when working on conveyances covered by the Act.

(Source: Amended at 39 Ill. Reg. 3417, effective February 19, 2015)

Section 1000.160 Administrative Hearing

- a) An Administrative Order issued by the Board or OSFM may be appealed in accordance with 41 Ill. Adm. Code 210:~~20~~.
- b) All appeals shall be submitted in writing to the Board no later than 10 working days following the date of the Administrative Order to correct the conveyance endangering public safety and welfare; all other appeals shall be made within 30 days following the date of the Administrative Order.
- c) All hearings conducted by the Board will be conducted pursuant to 41 Ill. Adm. Code 210.
- d) The Board may appoint a hearing officer to assist the Board with the hearing procedures.
- e) ~~Failure in accordance with 41 Ill. Adm. Code 210.150, failure~~ of a party to appear on the date of the hearing shall constitute default. The Board will hold the hearing and enter a final order.
- f) All final administrative decisions of OSFM or the Board are subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 39 Ill. Reg. 3417, effective February 19, 2015)

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Individual's Right to Access and Review Criminal History Record Information
- 2) Code Citation: 20 Ill. Adm. Code 1210
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1210.20	Amendment
1210.30	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 7 of the Criminal Identification Act [20 ILCS 2630/7] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-120]
- 5) Effective Date of Rule: February 23, 2015
- 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 is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 20644; October 31, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The first sentence of Section 1210.20(f) has been deleted and now reads, "This Section will generally become effective for individuals on July 15, 2015. By that time, the corresponding technology changes will have been implemented."
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes, as indicated in number 11 above.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemakings: The amendments will increase an individual's access to his or her criminal history record information by expanding the available facilities for obtaining such information to include licensed fingerprint vendors and vendor agencies. In addition, the amendments remove the current requirement that an individual view the criminal history transcript at the law enforcement or correctional facility. Instead, the amendments will allow an individual to obtain a copy of his or her criminal history transcript or statement that no criminal history record information was found.

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

Lisa Freitag
Rules Coordinator
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-9356

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

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1210
INDIVIDUAL'S RIGHT TO ACCESS AND REVIEW
CRIMINAL HISTORY RECORD INFORMATION

Section

1210.10	Definitions
1210.20	Procedures
1210.30	Fee
1210.40	Challenges

AUTHORITY: Implementing and authorized by Section 7 of the Criminal Identification Act [20 ILCS 2630/7] and authorized by Section 2605-15 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-15].

SOURCE: Adopted at 25 Ill. Reg. 12859, effective October 1, 2001; amended at 26 Ill. Reg. 12638, effective August 2, 2002; amended at 39 Ill. Reg. 3431, effective February 23, 2015.

Section 1210.20 Procedures

- a) Any individual may approach any Illinois law enforcement or correctional facility, licensed fingerprint vendor, or licensed fingerprint vendor agency during regular business hours for the purpose of obtaining the individual's criminal history transcript.
- b) In response to a request for a criminal history transcript, the facility, vendor or vendor agency shall obtain fingerprints from the individual and other identification information.
- c) Within 5 days~~30 days~~ after the request, the facility, vendor or vendor agency shall forward to the Department the fingerprints and identifying information.
- d) Within 7~~60~~ days after receiving the fingerprints and identifying information that meet Departmental submission standards via electronic submission or 45 days after receiving the fingerprints and identifying information that meet Departmental submission standards via fingerprint card, the Department shall

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED AMENDMENTS

~~send provide the facility with~~ the individual's criminal history transcript or, if no criminal history is found, a written statement so stating to the address provided by the individual or to the law enforcement or correctional facility pursuant to subsection (e).

- e) The individual may list the address of the law enforcement or correctional facility or his/her place of residence as the address where the criminal history transcript or written statement that no criminal history was found should be mailed. If mailed or transmitted to the facility, the individual shall be notified, within 2 days after the receipt of the criminal history transcript or statement, that no criminal history was found and shall release the document only to the individual. If the document is not retrieved within 45 days after notification to the individual, the facility shall destroy the criminal history transcript or statement that no criminal record was found. The facility shall contact the individual and allow the individual to view the criminal history transcript at the facility.
- f) This Section will generally become effective for individuals on July 15, 2015. By that time, the corresponding technological changes will have been implemented. However, effective immediately, an individual who initiates the access and review process under this Part by making the request at a law enforcement or correctional facility shall be entitled to obtain a copy of the transcript from that facility under subsection (e).

(Source: Amended at 39 Ill. Reg. 3431, effective February 23, 2015)

Section 1210.30 Fee

The facility, licensed fingerprint vendor, or licensed fingerprint vendor agency of which~~where~~ the request is made may charge a fee of up to the actual cost of processing the request. This fee may be waived.

(Source: Amended at 39 Ill. Reg. 3431, effective February 23, 2015)

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Entries, Subscriptions, and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1413
- 3) Section Number: 1413.114 Emergency Action: Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Emergency Rule: February 20, 2015
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency rulemaking will expire at the end of the 150-day period, or upon adoption of permanent rule, whichever comes first.
- 7) Date Filed with the Index Department: February 19, 2015
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Illinois Racing Board's central office and is available for public inspection.
- 9) Reason for Emergency: Currently, racetracks in Illinois are required to couple entries (thoroughbred racehorses) in a race that are owned by the same person or the same management. Due to the small or short field sizes the past several years, as a result of a shortage of racehorses, Arlington Park requested a rule change that they be allowed to uncouple same owner entries in any thoroughbred race. The result would be larger field sizes, increased betting, and greater revenue to the Board. On January 27, 2015, the Board unanimously approved Arlington's request. This rulemaking will benefit all thoroughbred racetracks in Illinois. Emergency rulemaking is necessary because Hawthorne Race Course opens the 2015 thoroughbred racing season on February 20, 2015.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking will permit racetracks that conduct thoroughbred racing to uncouple same owner entries in any thoroughbred race. The result would be larger field sizes, increased betting, and greater revenue to the Board.
- 11) Are there any rulemakings pending on this Part: Yes.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 13) Information and questions regarding this emergency rule shall be directed to:

Mickey Ezzo
Illinois Racing Board
100 West Randolph
Suite 5-700
Chicago IL 60601

312/814-5017
Mickey.ezzo@illinois.gov

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

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1413

ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

Section

1413.10	Registration with Jockey Club
1413.20	Registration Rules
1413.30	Eligibility
1413.40	How Entries are Made
1413.42	Number of Entries
1413.44	48- or 72-Hour Entries
1413.46	Also Eligibles Under 48- or 72-Hour Rule
1413.48	Uncoupled Entries
1413.50	Racing Secretary Receives Entries
1413.60	Supervision of Entries
1413.70	When Entries Close
1413.75	Limitation on Purse Increases or Reductions
1413.80	Closing in Absence of Conditions
1413.90	Entry by Telegraph
1413.100	List of Entries
1413.110	Limitations on Entries
1413.114	Uncoupled Entries Coupled As Entry
<u>EMERGENCY</u>	
1413.118	Further Definition of Coupling (Repealed)
1413.120	Riders Designated
1413.130	Carding Purse and Handicap Races
1413.134	Race Fails to Fill
1413.138	Substitute and Extra Races
1413.140	Right to Declare Out
1413.150	Number of Entries
1413.160	Fee to Enter
1413.170	Refunds
1413.180	Error in Entry

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

1413.190	Irrevocable Declaration
1413.200	Notice of Declaration
1413.210	Entry of Unfit Horse
1413.220	Refusal for Inconsistency
1413.230	Horse Ineligible
1413.240	Who May Enter
1413.250	Medical Reasons for Ineligibility
1413.260	Sweepstakes Entries
1413.265	Receipt for Nomination
1413.270	Previous Engagements
1413.280	Transfer of Engagements
1413.290	Transfer of Sweepstakes Engagements
1413.300	Jockey Club Certificates
1413.305	Transfer of Jockey Club Certificate
1413.310	Number of Races in a Day

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); passed July 11, 1972; amended April 11, 1974, filed and effective April 30, 1974; passed June 11, 1974; amended July 12, 1974, filed July 22, 1974; amended August 13, 1974, filed August 19, 1974; amended August 15, 1975, filed August 20, 1975; amended September 19, 1975, filed October 2, 1975; amended June 19, 1976; amended July 16, 1976, filed July 23, 1976; amended August 21, 1976, filed August 30, 1976; amended April 26, 1977, filed May 6, 1977; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10981; amended at 15 Ill. Reg. 2730, effective February 5, 1991; amended at 17 Ill. Reg. 1628, effective January 26, 1993; amended at 17 Ill. Reg. 21848, effective December 3, 1993; amended at 18 Ill. Reg. 11612, effective July 7, 1994; amended at 18 Ill. Reg. 17749, effective November 28, 1994; amended at 24 Ill. Reg. 7394, effective May 1, 2000; amended at 24 Ill. Reg. 12725, effective August 1, 2000; amended at 25 Ill. Reg. 178, effective January 1, 2001; amended at 25 Ill. Reg. 15608, effective December 1, 2001; amended at 26 Ill. Reg. 12367, effective August 1, 2002; amended at 31 Ill. Reg. 8530, effective June 1, 2007; amended at 32 Ill. Reg. 10165, effective July 1, 2008; emergency amendment at 35 Ill. Reg. 6605, effective April 4, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 13910, effective July 28, 2011; amended at 36 Ill. Reg. 16344, effective November 1, 2012; emergency amendment at 39 Ill. Reg. 3435, effective February 20, 2015, for a maximum of 150 days.

ILLINOIS RACING BOARD

NOTICE OF EMERGENCY AMENDMENT

**Section 1413.114 Uncoupled Entries~~Coupled As Entry~~
EMERGENCY**

All entries, either same owner or different owner, shall be uncoupled wagering interests in any race. Second part of same owner entries will have least preference in overfilled races. The date system will take preference in determining first and second parts of entries.

Entry shall mean:

- a) ~~A horse made eligible to run in a race; or~~
- b) ~~When starters in a race include two or more horses owned by the same person, or by the same management, they shall be coupled as an "entry", except as provided in 11 Ill. Adm. Code 1413.114(c). A wager on one horse in the "entry" shall be a wager on all horses in the "entry". If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.~~
- e) ~~The uncoupling of entries, with common owners, shall be permitted in stakes races with purses of \$100,000 or more with permission of the owner or trainer.~~

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 3435, effective February 20, 2015, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYWITHDRAWAL OF FILING PROHIBITION
OF PROPOSED RULEMAKING

ILLINOIS COMMERCE COMMISSION

Heading of the Part: Governmental Electric Aggregation

Code Citation: 83 Ill. Adm. Code 470

<u>Section Numbers:</u>	470.10	470.110	470.220	470.250
	470.20	470.200	470.230	470.260
	470.100	470.210	470.240	

Date Originally Published in the *Illinois Register*: 12/27/13
37 Ill. Reg. 20544

Date Filing Prohibition Published in *Illinois Register*: 10/31/14
37 Ill. Reg. 20839

Date Filing Prohibition Became Effective: 10/14/14

Date Filing Prohibition Withdrawn: Contingent upon, and effective with, ICC's adoption of the rulemaking with the proposed modifications.

Pursuant to Section 5-115 of the Illinois Administrative Procedure Act, the Joint Committee, at its meeting on 2/17/15, has withdrawn the prohibition against the filing of the Illinois Commerce Commission's rulemaking contingent upon, and effective with, ICC's adoption of the rulemaking with the proposed modifications. The Committee originally issued this Filing Prohibition at its 10/14/15 meeting.

Please take notice that the agency is no longer prohibited from filing the rulemaking with the Secretary of State, as modified in accordance with agreements between the agency and the Joint Committee on Administrative Rules and the modifications submitted in response to the Objection and Filing Prohibition, and from enforcing or invoking the rule.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

- 1) Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
- 2) Name of Contributor: George Lombard, Chief Executive Officer, The Lombard Company
- 3) Dates of Violations: 5/9/14, 7/31/14 and 10/7/14
- 4) Description of Violation: George Lombard, an affiliated person of the business entity The Lombard Company, made three contributions in the amounts of \$250, \$1,000 and \$250 to Citizens for Rauner, Inc., a campaign committee established to support the election of Bruce Rauner to the office of Governor. At the time of the contribution, Bruce Rauner was a declared candidate for the office of Governor, and The Lombard Company was prohibited from making a contribution for a period of two years after expiration or termination of contracts with the Capital Development Board, the total annual combined value of which was in excess of \$50,000.
- 5) Summary of Action Taken by the Agency: Section 50-37 requires that when three prohibited contributions are made by a business entity within a 36 month period, that all contracts between State agencies and that business entity shall be void and that business entity shall not bid or respond to any invitation to bid or request for proposal from any State agency, or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. The Chief Procurement Officers for the Capital Development Board has notified The Lombard Company of the apparent violation and reviewed responsive material provided by George Lombard and Michael G. Lombard. The Chief Procurement Officer finds that The Lombard Company shall be prohibited from entering into any contracts with any State agency for a period ending 10/7/2017. The Chief Procurement Officer also finds that The Lombard Company has no current contracts with a State agency.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

NOTICE OF PUBLIC INFORMATION

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

- 1) Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the *Illinois Register*.
- 2) Name of Contributor: Michael Straza (then Vice-President of Zeller Digital Innovations)
- 3) Date of Violation: September 1, 2010
- 4) Description of Violation: Michael Straza, (then Vice-President of Zeller Digital Innovations) made a contribution of \$200 to Citizens for Bill Brady, Inc. (now Brady for Senate Inc.), a campaign committee established to support the election of Bill Brady to the office of Governor. At the time of the contribution, Bill Brady was a declared candidate for the office of Governor, and Zeller Digital Innovations had in place active contracts with Illinois State University. The total annual combined value of the contract was in excess of \$50,000.
- 5) Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the Chief Procurement Officer. The Chief Procurement Officer for Public Institutions of Higher Education has notified Michael Straza, (then Vice-President of Zeller Digital Innovations) of the apparent violation, reviewed responsive material provided, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by Michael Straza, (then Vice-President of Zeller Digital Innovations) of the violation and its understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

CHIEF PROCUREMENT OFFICER FOR
PUBLIC INSTITUTIONS OF HIGHER EDUCATION

NOTICE OF PUBLIC INFORMATION

As required by Section 50-37(e) of the Procurement Code, Brady for Senate Inc. (formerly Citizens for Bill Brady, Inc.), is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice. This amount is \$200.00

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of February 18, 2015 through February 23, 2015. The rulemakings are scheduled for review at the Committee's March 17, 2015 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>
4/5/15	<u>Department of Public Health</u> , Student Loan Repayment Program Code (77 Ill. Adm. Code 582; 38 Ill. Reg. 19623)	10/10/14 38 Ill. Reg. 19623	3/17/15
4/8/15	<u>Department of Human Rights</u> , Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)	12/26/14 38 Ill. Reg. 23904	3/17/15

EXECUTIVE ORDERS

2015-15**EXECUTIVE ORDER INITIATING CONSOLIDATION OF LOCAL GOVERNMENTS
AND SCHOOL DISTRICTS, AND ELIMINATING UNFUNDED MANDATES**

WHEREAS, local governments and school districts deliver critical public services that attract and retain residents and businesses; and

WHEREAS, the State of Illinois has 6,963 units of local government according to the 2012 Census of Governments, the highest number in the United States by more than 1,800 units; and

WHEREAS, the State of Illinois has 102 county governments, the sixth highest number in the United States; and

WHEREAS, the State of Illinois has 905 school and community college districts, the third highest number in the United States; and

WHEREAS, the State of Illinois has 1,431 township governments, the third highest number in the United States; and

WHEREAS, the State of Illinois has 3,227 special district governments, the highest number in the United States; and

WHEREAS, the State of Illinois has 1,298 municipal governments, the highest number in the United States; and

WHEREAS, efficient provision of government and education services is essential to the prevention of waste; and

WHEREAS, unfunded mandates create burdens upon local governments and school districts, reducing efficiency; and

WHEREAS, Illinois school districts have been saddled with at least 140 unfunded mandates since 2000; and

WHEREAS, local governments and school districts throughout Illinois have successfully consolidated functions to reduce overall costs, increase efficiency and improve delivery of services; and

WHEREAS, state policy should encourage cooperation amongst local governments and school districts to consolidate and streamline functions, and eliminate unfunded mandates;

EXECUTIVE ORDERS

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, pursuant to the supreme executive authority vested in me by Article V, Section 8 of the Illinois State Constitution of 1970, hereby order as follows:

I. CREATION

There is hereby created the Local Government Consolidation and Unfunded Mandates Task Force (the "Task Force") having the duties and powers set forth herein. The Task Force shall consist of members appointed by the Governor, and be residents of the State of Illinois representing public and private organizations with an interest in strengthening the efficiency and accountability of government and education services throughout the State.

Membership of the Task Force shall include, but not be limited to, representatives of units of local government, school districts, and the General Assembly.

The Lieutenant-Governor, or her designee, shall serve as the chair of the Task Force. The Task Force members shall serve on the Task Force without compensation for a term of 12 months. The Governor may fill any vacancies when they occur.

II. PURPOSE

The purpose of the Task Force shall be to study issues of local government and school district consolidation and redundancy, and to make recommendations that will ensure accountable and efficient government and education in the State of Illinois. The Task Force shall:

- a) Conduct a comprehensive review of State laws relating to local government and school district consolidation;
- b) Conduct a comprehensive review of State laws relating to unfunded mandates on local government bodies and school districts;
- c) Identify opportunities to consolidate, streamline, or eliminate duplicative governmental bodies, school districts, and taxing authorities;
- d) Identify opportunities to replace, revise, or repeal unfunded mandates placed on local government and school districts:

EXECUTIVE ORDERS

- e) Discuss solutions and impediments to consolidation of local governments and school districts;
- f) Analyze the success of programs and legislation with similar goals implemented in Illinois and other states; and
- g) Prepare a final report to the Governor and the General Assembly making specific recommendations to consolidate local governments and school districts with the goal of improving the delivery of government and education services at a lower cost to State taxpayers.

III. FUNCTION

- a) The Illinois Department of Central Management Services shall provide administrative support to the Task Force as needed, including providing an ethics officer, an Open Meetings Act officer, and a Freedom of Information Act officer.
- b) The Task Force shall hold at least four meetings throughout the State, but otherwise shall meet at the call of the chair.
- c) The Task Force shall submit its final report to the Governor and the General Assembly by December 31, 2015.
- d) Upon submission of its final report the Task Force shall be dissolved.

IV. TRANSPARENCY

In addition to whatever policies or procedures it may adopt, all operations of the Task Force will be subject to the provisions of the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.) and the Illinois Open Meetings Act (5 ILCS 120/1 et seq.).

V. SEVERABILITY

If any provision of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

VI. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.

EXECUTIVE ORDERS

Issued by Governor: February 13, 2015

Filed with Secretary of State: February 17, 2015

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 10 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

17 - 650	.....	3202
17 - 660	.....	3225
17 - 805	.....	3241
17 - 870	.....	3249
17 - 875	.....	3264
35 - 101	.....	3276
35 - 103	.....	3329
35 - 106	.....	3336
35 - 108	.....	3344
77 - 490	.....	3355
11 - 1413	.....	3415

ADOPTED RULES

41 - 1000	2/19/2015	3417
20 - 1210	2/23/2015	3431

EMERGENCY RULES

11 - 1413	2/20/2015	3435
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**JOINT COMMITTEE ON
ADMINISTRATIVE RULES
STATEMENTS OF PROHIBITED
FILINGS**

83 - 470	3440
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**EXECUTIVE ORDERS AND
PROCLAMATIONS**

15 - 15	2/13/2015	3446
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