

TABLE OF CONTENTS

July 29, 2016 Volume 40, Issue 31

PROPOSED RULES

REVENUE, DEPARTMENT OF

Retailers' Occupation Tax

86 Ill. Adm. Code 130.....10083

SECRETARY OF STATE

Issuance of Licenses

92 Ill. Adm. Code 1030.....10137

WORKERS' COMPENSATION COMMISSION, ILLINOIS

Freedom of Information Act (Repealer)

2 Ill. Adm. Code 2026.....10149

Access to Records of the Workers' Compensation Commission

2 Ill. Adm. Code 2026.....10168

Electronic Filing

50 Ill. Adm. Code 9015.....10191

Pre-Arbitration

50 Ill. Adm. Code 9020.....10199

Arbitration

50 Ill. Adm. Code 9030.....10221

Review

50 Ill. Adm. Code 9040.....10237

Oral Arguments

50 Ill. Adm. Code 9050.....10252

Judicial Review

50 Ill. Adm. Code 9060.....10256

Settlement Contracts and Lump Sum Petitions

50 Ill. Adm. Code 9070.....10260

Disciplining of Attorneys; Agents

50 Ill. Adm. Code 9090.....10268

Insurance Regulations

50 Ill. Adm. Code 9100.....10272

Miscellaneous

50 Ill. Adm. Code 9110.....10307

ADOPTED RULES

POLLUTION CONTROL BOARD

Underground Storage Tanks

35 Ill. Adm. Code 731.....10312

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....10341

JCAR REVIEW OF PROPOSED RULES STATEMENT OF OBJECTION

CHIEF PROCUREMENT OFFICER FOR

CAPITAL DEVELOPMENT BOARD	
Chief Procurement Officer for Capital Development Board	
44 Ill. Adm. Code 8.....	10342
EXECUTIVE ORDERS AND PROCLAMATIONS	
EXECUTIVE ORDERS	
Executive Order to Ensure Equal Opportunity Is Provided To All Illinois Businesses	
16-8.....	10343
Executive Order Implementing the Next Phase Of the Millennium Reserve Initiative	
16-9.....	10346
PROCLAMATIONS	
Flag Lowering - Honoring Illinois' Fallen Firefighter Eric Kohlbauer	
16-191.....	10350
Flag Lowering - Honoring Illinois' Fallen Firefighter Eric Kohlbauer (Revised)	
16-191.....	10350

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 2016

Issue#	Rules Due Date	Date of Issue
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
30	July 11, 2016	July 22, 2016
31	July 18, 2016	July 29, 2016
32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.340 Proposed Action:
Amendment
- 4) Statutory Authority: 35 ILCS 120/12; 20 ILCS 2505/2505-795; PA 98-584
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates and restructures the rolling stock exemption rule to:
 - Set forth the elements of the exemption in a logical order and delete obsolete/dated provisions.
 - Implement PA 98-584, which sets forth the test for whether aircraft or watercraft meet the requirements to qualify as rolling stock moving in interstate commerce and therefore qualify for an exemption from Retailers' Occupation and Use Tax. This change makes the test used the same as that for motor vehicles and trailers.
 - Replace references to the Interstate Commerce Commission with the Federal Motor Carrier Safety Administration and make other changes regarding how to document the exemption.
 - Add examples of what intrastate movements do and do not qualify as interstate trips/miles.
- 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? Yes

Section Number: Proposed Action: Illinois Register Citation:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

130.330 Amendment 40 Ill. Reg. 5853; April 8, 2016

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

Samuel J. Moore
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: The Public Act change codified in this rule would impact those entities purchasing aircraft or watercraft for use as rolling stock moving in interstate commerce. The updated documentation requirements for eligibility for the rolling stock exemption would affect those entities purchasing motor vehicles, trailers, aircraft and watercraft for use as rolling stock.
 - B) Reporting, bookkeeping or other procedures required for compliance: The change made by the Public Act codified by this rule would require similar reporting and bookkeeping to claim this exemption as prior to this change.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January, 2016

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Soft Drinks and Candy
130.311	Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section

130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section

130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

	Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments (Repealed)
130.605	Sales of Property Originating in Illinois; Questions of Interstate Commerce
130.610	Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 130.820 Preservation of Books During Pendency of Assessment Proceedings
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

- Section
130.901 Civil Penalties
130.905 Interest
130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

- Section
130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

- Section
130.1101 Definition of Federal Area
130.1105 When Deliveries on Federal Areas Are Taxable
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
130.1201 General Information
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

- Section
130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section

130.1901	Addition Agents to Plating Baths
130.1905	Agricultural Producers
130.1910	Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
130.1915	Auctioneers and Agents
130.1920	Barbers and Beauty Shop Operators
130.1925	Blacksmiths
130.1930	Chiropodists, Osteopaths and Chiropractors
130.1934	Community Water Supply
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1946	Tangible Personal Property Used or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
130.1947	Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
130.1948	Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprises Zones
130.1949	Sales of Building Materials Incorporated into the South Suburban Airport
130.1950	Sales of Building Materials Incorporated into the Illiana Expressway
130.1951	Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1954	Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones
130.1955	Farm Chemicals
130.1956	Dentists
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians
130.2170	Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal
130.ILLUSTRATION A	Examples of Tax Exemption Cards
130.ILLUSTRATION B	Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C	Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. _____, effective _____.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.340 Rolling Stock

- a) *Notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. [35 ILCS 120/2-5(12)] In addition, notwithstanding the fact that the sale is at retail, the Retailers' Occupation Tax does not apply to sales of tangible personal property to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce as long as so used by the interstate carriers for hire. [35 ILCS 120/2-5(13)] For example, the exemption may also apply to lessors under leases of less than one year's duration and manufacturers who provide tangible personal property (such as shipping containers) to interstate carriers for hire when those interstate carriers use that property as rolling stock moving in interstate commerce.*
- 1) In making an initial determination of eligibility, in addition to any other criteria that a motor vehicle, trailer, aircraft, watercraft or railroad car must meet to qualify for the rolling stock exemption, two conditions that it must meet in each instance are:
- A) it must transport persons or property for hire; and
- B) it must transport persons or property in interstate commerce.
- 2) The purchase of rolling stock that does not meet both criteria in subsection (a)(1) is not eligible for the rolling stock exemption under any circumstances.
- b) Definitions. As used in this Section:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

For purposes of subsection (g)(2) (trailers), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.

"Dual use facility" means a facility that contains:

both a river terminal and a processing plant at the same location;

both a rail terminal and a processing plant at the same location; or

both an intermodal terminal facility and a processing plant at the same location.

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle. [625 ILCS 5/1-124.5]

"Intermodal terminal facility" means land, improvements to land, equipment, and appliances necessary for the receipt and transfer of goods between one mode of transportation and another, at least one of which must be transportation by rail. [65 ILCS 5/11-74.4-3.1].

"Limousine" means any privately owned first division vehicle intended to be used for the transportation of persons for hire when the payment is not based on a meter charge, but is prearranged for a designated destination. [625 ILCS 5/1-139.1]

"Motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5].

"Rail terminal" means specialized locations along railroad lines developed to serve the intermodal transportation network. Rail terminals offer intermodal transfer facilities and facilitate interstate commerce.

"River terminal" means specialized locations along rivers developed to serve the intermodal transportation network. River terminals offer intermodal transfer facilities and facilitate interstate commerce.

b) ~~The term~~ "Rolling Stock" includes the transportation vehicles of any kind of

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

interstate transportation company for hire (e.g., railroad, bus line, air line, trucking company, barge company, limousine company~~etc.~~), but not vehicles that are being used by a person to transport its officers, employees, customers or others not for hire (even if they cross State lines) or to transport property that the person owns or is selling and delivering to customers (even if the transportation crosses State lines). Railroad "rolling stock" includes all railroad cars, passenger and freight, and locomotives (including switching locomotives) or mobile power units of every nature for moving the cars, operating on railroad tracks, and includes all property purchased for the purpose of being attached to the cars or locomotives as a part of the cars or locomotives. The exemption includes some equipment (such as containers called trailers and containers transferred at intermodal terminal facilities) that are used by interstate carriers for hire, loaded on railroad cars, to transport property, but that do not operate under their own power and are not actually attached to the railroad cars. The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of the vehicles, and that do not participate directly in some way in the transportation process. The exemption does not include property of an interstate carrier for hire used in the company's office, such as furniture, computer typewriters, office supplies and the like.

"Trailer" means a trailer:

as defined in Section 1-209 of the Illinois Vehicle Code;

a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and

a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code.

- c) A motor vehicle, trailer, aircraft or watercraft that otherwise meets the requirements for the rolling stock exemption set forth in subsection (g) will qualify for the rolling stock exemption if, during each 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. Documentation of all trips taken or miles traveled by the rolling stock in each 12-month period must be maintained and be made available to the Department upon request. For a discussion of 12-month periods, see subsection (f). For a discussion of the "greater than 50% of trips or miles" test, see subsection (g). ~~The rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~to any tangible personal property that it purchases because it does not meet the statutory tests of being an interstate carrier for hire.~~

- d) Generally, the rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any rolling stock that it purchases because it does not meet the statutory test of being an interstate carrier for hire. However, provided that it is supported by adequate books and records, Except as provided in subsection (h) of this Section, the exemption applies to vehicles used by an interstate carrier for hire, even just between points in Illinois, in transporting, for hire, persons whose journeys or property whose shipments, originate or terminate outside Illinois on other carriers. In contrast, when calculating interstate trips or miles to determine whether rolling stock qualifies for the exemption, trips or miles The exemption cannot be claimed for an interstate carrier's use of vehicles solely between points in Illinois do not qualify as interstate trips or miles if where the journeys of the passengers or the shipments of property neither originate nor terminate outside Illinois.
- e) Basic Guidelines on the Trips or Miles that May and May Not be Used to Claim the Rolling Rock Exemption
- 1) For interstate trips or interstate miles to qualify, the interstate trips or miles must be for hire. However, the total amount of trips taken or miles traveled by rolling stock within any 12-month period includes trips or miles for hire and those not for hire. An example of a not for hire trip or not for hire miles is when a business uses its truck to transport its own merchandise.
- EXAMPLE – Nonqualifying: A farmer in Decatur, Illinois sells grain to an interstate carrier. The carrier takes delivery of the grain in Decatur and hauls it to Oklahoma City, Oklahoma. The shipment from Decatur to Oklahoma City is not included in the carrier's qualifying interstate trips or miles for hire because the shipment was not for hire. The carrier owned the grain it was shipping interstate. For an interstate trip to qualify, it must be for hire.
- 2) Any use of the rolling stock in a movement from one location to another, including but not limited to mileage incurred by rolling stock returning from a delivery without a load or passengers, shall be counted as a trip or mileage.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 3) However, the movement of the rolling stock in relation to the maintenance or repair of that rolling stock shall not count as a trip or mileage.
- 4) Any mileage shown for rolling stock that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that rolling stock. If the trips method has been chosen for that rolling stock, the Department shall use its best judgment and information to determine the number of trips represented by that mileage.
- 5) A movement in which rolling stock is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby rolling stock is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire.
- 6) A for-hire movement of a motor vehicle or trailer that is transporting property to or from a river terminal qualifies as an interstate trip for hire because, absent evidence to the contrary, it is presumed that shipments through a river terminal are destined for or coming from an out-of-state location. Such a movement is best evidenced by including the words "river terminal" in the documentation related to the movement. The documentation of any movement to or from a dual use facility that includes a river terminal must specify whether the movement was to or from the river terminal at the dual use facility (qualifying) or the processing plant at the dual use facility (nonqualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant. See subsection (e)(10), Example 4.
- 7) A for-hire movement of a motor vehicle or trailer that is transporting property to a rail terminal qualifies as an interstate trip for hire because, absent evidence to the contrary, it is presumed that shipments to a rail terminal are destined for an out-of-state location. Such a movement is best evidenced by including the words "rail terminal" in the documentation related to the movement. A for-hire movement of a motor vehicle or trailer that is transporting property from a rail terminal in Illinois to another location in Illinois, however, is not presumed to be an interstate trip for hire. To qualify as an interstate trip for hire, such a trip would require documentation showing that the product being picked up at the rail terminal is coming from an out-of-state location as part of an

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

interstate trip for hire. The documentation of any movement to a dual use facility that includes a rail terminal must specify whether the movement was to the rail terminal at the dual use facility (qualifying) or the processing plant at the dual use facility (nonqualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant.

EXAMPLE – Nonqualifying: A grain elevator located at a rail terminal in Illinois receives shipments of grain by truck from a number of Illinois farms, most of which is destined to be shipped out of state by rail (trips to the rail terminal presumed to qualify). However, a small percentage of the grain stored at the rail terminal in Illinois is sold to a feed processing plant in Illinois. A carrier for hire picks up the grain at the Illinois rail terminal and transports it to the feed processing plant in Illinois. The shipment of the grain from the rail terminal in Illinois to the feed processing plant in Illinois does not qualify as an interstate trip or miles because the grain originated in Illinois and terminated in Illinois.

- 8) A for-hire movement of a motor vehicle or trailer that is transporting property to or from an intermodal terminal facility qualifies as an interstate trip for hire because, absent evidence to the contrary, it is presumed that shipments through an intermodal terminal facility are destined for or coming from an out-of-state location. Such a movement is best evidenced by including the words "intermodal terminal facility" in the documentation related to the movement. The documentation of any movement to or from a dual use facility that includes an intermodal terminal facility must specify whether the movement was to or from the intermodal terminal facility at the dual use facility (qualifying) or the processing plant at the dual use facility (nonqualifying). Absent documentation to the contrary, it is presumed that the movement was to the processing plant.
- 9) A movement in which an item of tangible personal property is transported to a location in Illinois, has its form or use changed through some process, and then is transported out of state does not count as a qualifying trip or miles. The item transported must remain the same for the duration of the interstate movement in order to qualify. An example of nonqualifying trips or miles would include a situation in which a carrier for hire has a contract to transport raw materials (e.g., corn) to a feed mill where it is

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

manufactured into cattle feed and thereafter transported by that same carrier for hire to an out-of-state location. Even though the property is transported out of state, it changes its form or use before transport out of state and therefore the transportation of the corn to the feed mill does not qualify. The trips or miles related to the transport of the cattle feed to the out-of-state location, however, would qualify.

- 10) If a carrier for hire only transports persons or property between points in Illinois but claims to be an interstate carrier for hire, then, in order to satisfy the rolling stock exemption requirement that a journey or shipment must originate or terminate outside Illinois to qualify as an interstate trip or interstate miles, the carrier for hire must demonstrate through its books and records, such as a bill of lading or a contract for delivery to or from out of state, that the intrastate leg of the journey or shipment is part of an interstate journey or shipment. Following are examples of intrastate journeys and shipments that do and do not qualify.

EXAMPLE 1 – Qualifying: A farmer in Decatur, Illinois sells grain to a company in Oklahoma City, Oklahoma and agrees to ship the grain. A carrier for hire picks up the grain in Decatur. The bill of lading shows that the grain is being shipped to Oklahoma City via Effingham, Illinois. The carrier for hire hauls the grain to a grain elevator in Effingham that is not a rail terminal or river terminal, where it is off-loaded. It is later loaded onto another carrier for hire for continuation of the shipment to Oklahoma City. The leg of the shipment between Decatur and Effingham is included in the carrier's qualifying interstate trips or miles for hire because the bill of lading in the carrier's records documents that the grain the carrier shipped was bound for Oklahoma City, even though this carrier only hauled the grain from Decatur to Effingham.

EXAMPLE 2 – Nonqualifying: A farmer in Decatur, Illinois sells grain to a grain elevator in Effingham, Illinois that is not a rail terminal or river terminal. A carrier for hire picks up the grain in Decatur and hauls it to the grain elevator in Effingham, where it is off-loaded. The bill of lading shows that the grain is being shipped to Effingham where the grain is sold and title passes to the Effingham grain elevator. Thereafter, the grain elevator in Effingham sells the grain to a company in Oklahoma City, Oklahoma. The same carrier for hire hauls the grain from Effingham to Oklahoma City. The shipment from Decatur to Effingham does not

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

qualify as an interstate trip or interstate miles for hire because the bill of lading documents that the grain the carrier shipped is bound for Effingham. This is so even though the grain is eventually shipped out of state from Effingham to Oklahoma City. The trip from Effingham to Oklahoma City by the same carrier would, however, be included in the qualifying interstate trips or miles for hire for the carrier.

EXAMPLE 3 – Qualifying: A farmer in Pleasant Plains, Illinois sells grain to a company and agrees to ship the grain via a river terminal. A carrier for hire picks up the grain in Pleasant Plains and hauls it to a river terminal in Peoria, Illinois for shipment to the purchaser. The leg of the shipment between Pleasant Plains and Peoria is included in the carrier's qualifying interstate trips or miles for hire because the delivery is made to a river terminal, where it is presumed it will thereafter be shipped out of state. (See subsection (e)(6).)

EXAMPLE 4 – Nonqualifying: A farmer in Pleasant Plains, Illinois sells grain to a large food processing company and hires a carrier to haul the grain to one of the company's processing plants located at a dual use facility on the Illinois river. The dual use facility contains a processing plant and a river terminal. The shipment to the processing plant does not qualify as an interstate trip or miles because, even though the dual use facility also operates as a river terminal, the grain was delivered to the processing plant and not shipped via the river terminal located at the dual use facility.

- 11) A limousine that carries for hire a person to or from an airport is deemed to be carrying a person whose journey originates or terminates outside Illinois, even if the limousine travels just between points in Illinois.

EXAMPLE 1 – Qualifying: A limousine picks up a passenger at his residence in downtown Chicago and drives him to O'Hare International Airport. This trip is a qualifying trip or miles for purposes of the exemption. In addition, the limousine picks up another passenger at O'Hare International Airport and drives her to a hotel in downtown Chicago. This trip is also a qualifying trip or miles for purposes of the exemption.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

EXAMPLE 2 – Nonqualifying: A major corporation owns a limousine that it uses to transport employees to and from O'Hare International Airport for business travel. These limousine trips are not qualifying trips or miles for purposes of the exemption because they are not for hire.

- f) Twelve Month Periods; Leased Items no Longer Used in a Qualifying Manner
- 1) To be eligible for the rolling stock exemption, motor vehicles, trailers, aircraft and watercraft must carry persons or property for hire in interstate commerce for greater than 50% of their total trips or for greater than 50% of their total miles for each 12-month period, subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating ROTA Sections 4 and 5); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5); and the Service Use Tax Act [35 ILCS 110/12] (incorporating ROTA Sections 4 and 5). The first 12-month period for the use of a vehicle, trailer, aircraft or watercraft begins on the date of registration or titling with an Illinois agency, whichever occurs later. If the vehicle, trailer, aircraft or watercraft is not required to be titled or registered with an Illinois agency and the vehicle, trailer, aircraft or watercraft is not titled or registered with an Illinois agency, the first 12-month period for use of that vehicle, trailer, aircraft, or watercraft begins on its date of purchase or first use in Illinois, whichever is later.
- A) Except as provided in subsection (f)(2), if a vehicle, trailer, aircraft or watercraft carries persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in the first 12-month period, but then does not carry persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in a subsequent 12-month period, the vehicle, trailer, aircraft or watercraft, or any property attached to that vehicle, trailer, aircraft of watercraft upon which the rolling stock exemption was claimed, will be subject to tax on its original purchase price and tax is due at the conclusion of the 12-month period in which the exemption conditions are no longer met. For example, if a vehicle is used in a qualifying manner for the first 12-month period, but is not used in a qualifying manner for the second 12-month period, that vehicle

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

will be subject to tax based upon its original purchase price, even if it is then used in a qualifying manner in the third 12-month period. As a result, when the rolling stock ceases to qualify for the exemption (at the conclusion of the second 12-month period when the exemption conditions are no longer met), the purchaser must file a Use Tax return and pay the tax.

- B) For repair or replacement parts to qualify for the rolling stock exemption, the vehicle, trailer, aircraft or watercraft upon which those parts are installed must be used in a qualifying manner for the vehicle's, trailer's, aircraft's or watercraft's 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter (i.e., the parts follow the 12-month periods for the rolling stock that they become a part of). For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability for the vehicle), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter in order for the parts to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.
- C) The following examples apply the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] (incorporating ROTA Sections 4 and 5).
- i) A vehicle was purchased on January 15, 2015 and titled and registered on that date, and the appropriate return was timely filed claiming the rolling stock exemption. The vehicle was used in a qualifying manner for the first 12-month period ending on January 15, 2016. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

that vehicle would expire on June 30, 2018. If the vehicle had been originally purchased and registered outside Illinois and later relocated and registered in Illinois, the first 12-month period would begin on the date of registration in Illinois. For example, if the vehicle was purchased on January 15, 2015 and titled and registered on that date in Missouri, but later relocated to Illinois and registered in Illinois on July 20, 2015, then the period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that vehicle would expire on December 31, 2018.

ii) A vehicle was purchased on July 10, 2015 and was titled and registered on that date. On January 12, 2018 the owner purchased new tires for the vehicle and the vehicle was used in a qualifying manner for the first 12-month period ending on July 10, 2018 and the two subsequent 12-month periods ending on July 10, 2020. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding the replacement parts (new tires) would expire on June 30, 2021.

2) When motor vehicles, trailers, aircraft or watercraft that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase, are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month in which the property is no longer subject to a qualifying lease. [35 ILCS 105/10] The provisions of this subsection (f)(2) apply equally to owners, lessors and shippers exempt under ROTA Section 2-5(13) who purchase tangible personal property that is utilized by interstate carriers

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.

EXAMPLE: A vehicle was purchased for lease to an interstate carrier for hire on August 15, 2015 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The appropriate return was timely filed claiming the rolling stock exemption. The qualifying lease ended on November 15, 2016, and the vehicle was no longer used in a qualifying manner. At the time the qualifying lease ends and the vehicle reverts to the lessor, the lessor owes Use Tax on the fair market value of the vehicle on the date it reverts to the lessor. The return and the tax are due by the last day of the month following the month in which the property reverts to the lessor. The period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that vehicle would expire on December 31, 2019.

- g) This subsection sets forth the test for whether motor vehicles, trailers, aircraft or watercraft, or repair and replacement parts for each, qualify for the rolling stock exemption.
- 1) Motor Vehicles
- A) Except for limousines, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed for limousines purchased on or after August 28, 2007, even if their gross vehicle weight rating is 16,000 pounds or less, if the use of the limousines otherwise meets the requirements set out in this subsection (g).
- B) A motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds (or a limousine) will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h). If the purchase is from an out-of-state retailer or from a nonretailer, the election must be documented in the purchaser's books and records. If no election is made as required under this subsection (g)(1)(B), the owner will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(c)] Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that motor vehicle. [35 ILCS 120/2-51(f)]

C) Examples of application of the greater than 50% trips test:

EXAMPLE 1 – Qualifying: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate shipment). The truck continues to Indianapolis, Indiana and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to Gary, Indiana and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield from the delivery in Gary (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The truck is considered to have made a total of four trips (one trip to Champaign, one trip to Indianapolis, one trip to Gary and a return trip back to Springfield). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – Nonqualifying: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The truck then continues to Gary, Indiana and picks up property for use by that carrier's business (does not qualify because it must be for hire). The truck then returns to Chicago (does not qualify because returning from a nonqualifying trip out of state). The truck is considered to have made a total of three trips (one to Joliet, one to Gary and a return trip to Chicago). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire.

EXAMPLE 3 – Nonqualifying: An interstate carrier uses a truck to carry property for hire and makes 150 trips during the year. All of the trips consist of hauling grain for hire. Fifty of the trips are from local farms in Illinois to a grain elevator in Illinois that is not a rail terminal or river terminal, where the bill of lading shows the end destination as the grain elevator (do not qualify because no evidence grain moving interstate (see subsection (e)(10))). Fifty of the trips are from local farms in Illinois to a river terminal (qualify, because delivered to a river terminal, which is a presumed interstate movement (see subsection (e)(6))). Fifty of the trips are from local farms in Illinois to a grain processing facility in Illinois (do not qualify because grain will have its form or use changed at processing facility before any further transport (see subsection (e)(9))). Because only 50 of the 150 trips, or 33.3% of the trips qualify as moving property for hire in interstate commerce (river terminal trips), the truck does not qualify for the test set forth in this subsection (g).

D) Examples of Application of the Greater than 50% Mileage Test

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

EXAMPLE 1 – Qualifying: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois (88 mile movement) where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate shipment). The truck continues to Indianapolis, Indiana (125 mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to Hammond, Indiana (151 mile movement) and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield (204 mile movement) from the delivery in Hammond (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The truck is considered to have driven a total of 568 qualifying miles. If these were all the miles that the truck drove within the first 12-month period (or were all the miles that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the truck would also have qualified for the exemption.

EXAMPLE 2 – Nonqualifying: If the truck described in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair or replacement parts purchased for the truck would not have qualified for the exemption.

EXAMPLE 3 – Non-Qualifying: An interstate carrier uses a truck to carry property for hire and travels 1500 miles during a 12-month period. All of the trips consist of hauling grain for hire. Five hundred of the miles are from local farms in Illinois to a grain elevator in Illinois that is not a rail terminal or river terminal,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

where the bill of lading shows the end destination as the grain elevator (do not qualify because no evidence grain moving interstate (see subsection (e)(10))). Five hundred of the miles are from local farms in Illinois to a river terminal (qualify, because delivered to a river terminal, which is a presumed interstate movement (see subsection (e)(6))). Five hundred of the miles are from local farms in Illinois to a grain processing facility in Illinois (do not qualify because grain will have its form or use changed at processing facility before any further transport (see subsection (e)(9))). Because only 500 of the 1500 miles, or 33.3% of the miles, qualify as moving property for hire in interstate commerce (river terminal miles), the truck does not qualify for the test set forth in this subsection (g).

EXAMPLE 4 – Qualifying and Nonqualifying: A short-term truck lease company (e.g., 3 months) leases trucks whose gross vehicle weight rating exceeds 16,000 pounds. The trucks are typically leased to persons who transport property in interstate commerce. The lease company requires its customers to provide detailed records of the destination of each trip of a leased truck and whether the transport was for hire. One of the lease company's trucks travels 3,000 miles during its first 12-month period, 4,500 miles during its second 12-month period, and 2,800 miles during its third 12-month period. The lease company can show through the records it collects that, for each 12-month period, the truck carried property in interstate commerce for hire for greater than 50% of the miles traveled by the truck. For another truck, however, the records show that, for the second 12-month period, the truck did not transport property in interstate commerce for hire. This is because of the combination of trips that were strictly in state and for which the property did not originate or terminate out of state and trips that were not for hire, but rather were trips in which the customer hauled its own property. A third truck did not qualify for the exemption because the lease company could not provide the documentation to support its claim that the truck was used in each of the 12-month periods to carry persons or property for hire in interstate commerce for greater than 50% of its total trips or total miles for that period.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

2) Trailers

- A) To qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51(d)]
- B) Except as provided in subsection (g)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h). If the purchase is from an out-of-state retailer or from a nonretailer, the election must be documented in the purchaser's books and records. If no election is made as required under this subsection (g)(2)(B), the owner will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(d)] The election to use either the trips or mileage method made as required under this subsection (g)(2)(B) will remain in effect for the duration of the purchaser's ownership of that trailer. [35 ILCS 120/2-51(f)]
- C) The owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect at the time of purchase to alternatively document the qualifying use of those trailers in the following manner:
- i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (g)(1), then that trailer will also qualify for the exemption;
 - ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (g)(1), then that trailer will also qualify for the exemption; or
 - iii) if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (g)(1), then the percentage of

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

those trailers that qualify for the exemption is equal to the percentage of the motor vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (g)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (g)(2)(A).

D) Examples in Which Trailers are Dedicated to a Motor Vehicle or Motor Vehicles

EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to the company's 2 trucks and the owner elected at purchase to document the qualification of the trailers based on the qualification of the trucks to which they would be dedicated. Both of these trucks qualify for the exemption. Both the trailers will be considered to have met the requirements for the exemption during those periods.

EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to a subsidiary company's 20 truck fleet and the owner elected at purchase to document the qualification of the trailers based on the qualification of the trucks to which they would be dedicated. Only 19 of those 20 trucks qualify for the exemption for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

3) Aircraft and Watercraft

- A) For aircraft and watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51] For aircraft and watercraft purchased before January 1, 2014 to be eligible for the exemption, the taxpayer is required to show that the aircraft or watercraft transported persons or property for hire in interstate commerce during a 12-month period on a "regular and frequent" basis. (See National School Bus Service, Inc. v. Department of Revenue, 302 Ill. App. 3d 820 (1st Dist. 1998).)
- B) The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection (g)(3)(B) to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in this subsection (g)(3)(B). For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in this subsection (g)(3)(B). [35 ILCS 120/2-51(e)] If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (h). If the purchase is from an out-of-state retailer or from a nonretailer, the election must be documented in the purchaser's books and records. Once such an election for an aircraft or watercraft has been made, or is deemed to have been made if no election is made, the method used to document the qualification of that aircraft or watercraft for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that aircraft or watercraft. [35 ILCS 120/2-51(f)]
- C) Examples of Application of the Greater Than 50% Trips Test

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

EXAMPLE 1 – Aircraft – Qualifying: The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration that authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Federal Aviation Regulations (49 CFR 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare Airport in Chicago, Illinois to MidAmerica St. Louis Airport in Mascoutah, Illinois where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate travel). The aircraft continues to Indianapolis, Indiana and more passengers deplane in Indianapolis (qualifies as interstate trip because transported out of state). The aircraft then continues to Philadelphia, Pennsylvania and the remainder of the passengers deplane in Philadelphia (qualifies as interstate trip because transported out of state). The aircraft then returns empty to O'Hare Airport from Philadelphia (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The aircraft is considered to have made a total of four trips (one trip to Mascoutah, one trip to Indianapolis, one trip to Philadelphia and a return trip back to Chicago). If these were all the trips that the aircraft made within the first 12-month period (or were all the trips that aircraft made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair or replacement parts purchased for the aircraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – Aircraft – Non-Qualifying: The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration that authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Federal Aviation Regulations (49 CFR 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Airport in Chicago, Illinois to Abraham Lincoln Capitol Airport in Springfield, Illinois where the passengers deplane (does not qualify as interstate trip because it is strictly intrastate transport). The aircraft then continues to Indianapolis, Indiana and picks up employees of the charter aircraft company (does not qualify because it must be for hire). The aircraft then returns to Chicago (does not qualify because returning from a nonqualifying trip out of state). The aircraft is considered to have made a total of three trips (one to Springfield, one to Indianapolis and a return trip to Chicago). If these were all the trips that the aircraft made within the first 12-month period (or were all the trips that aircraft made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire. Any repair or replacement parts purchased for the aircraft during that first 12-month period would also not have qualified for the exemption.

EXAMPLE 3 – Aircraft – Non-Qualifying: A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. They elect the trips test method on the Rolling Stock Certification form. During the first 12-month period, the aircraft had 100 trips. Of that total, 50 trips were for the transportation of company employees. Another 25 trips were for nonqualifying intrastate flights for hire. The remaining 25 trips were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of its trips (75/100) were for nonqualifying movements.

EXAMPLE 4 – Watercraft – Qualifying: An interstate carrier uses a watercraft to carry property for hire from Moline, Illinois to Quincy, Illinois where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri and delivers more of the property in that city (qualifies as interstate trip

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

because transported out of state). The watercraft then continues to Memphis, Tennessee and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The watercraft then returns empty to Moline from the delivery in Memphis (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The watercraft is considered to have made a total of four trips (one trip to Quincy, one trip to St. Louis, one trip to Memphis and a return trip back to Moline). If these were all the trips that the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair or replacement parts purchased for the watercraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 5 – Watercraft – Nonqualifying: An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The watercraft then continues to St. Louis, Missouri and picks up property for use by that carrier's business (does not qualify because it must be for hire). The watercraft then returns to Chicago, Illinois (does not qualify because returning from a nonqualifying trip out of state). The watercraft is considered to have made a total of three trips (one to Peoria, one to St. Louis, and a return trip to Chicago). If these were all the trips that the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (g) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire.

D) Example of Application of the Greater Than 50% Mileage Test

EXAMPLE 1 – Aircraft – Qualifying: The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Administration that authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Federal Aviation Regulations (49 CFR 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from MidAmerica St. Louis Airport in Mascoutah, Illinois to Chicago Midway International Airport in Chicago, Illinois (1 hour flight time) where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate travel). The aircraft continues to LaGuardia Airport, New York City, New York (2 hours flight time) and more passengers deplane at LaGuardia (qualifies as interstate trip because transported out of state). The aircraft then continues to Indianapolis International Airport, Indianapolis, Indiana (2 hours and 30 minutes flight time) and the remainder of the passengers deplane in Indianapolis (qualifies as interstate trip because passengers originated in Illinois). The aircraft then returns empty to MidAmerica St. Louis Airport, Mascoutah, Illinois (2 hours and 45 minutes flight time) from the stop in Indianapolis (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The aircraft is considered to have flown a total of 8 hours and 15 minutes flight time. If these were all the flight hours that the aircraft flew within the first 12-month period (or were all the flight hours that the aircraft flew in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month period because 100% of its flight hours were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the aircraft by the owner of the aircraft would also have qualified for the exemption.

EXAMPLE 2 – Aircraft – Non-Qualifying: If the aircraft described in Example 1 had traveled instead a total of 24 hours and 45 minutes during that 12-month period with 16 hours and 30 minutes of those flight hours not being documented as qualifying flight hours, the aircraft would not have qualified for the exemption because only 8 hours and 15 minutes of its flight hours qualified out of 24 hours and 45 minutes total flight hours for a

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

33.33% qualifying percentage. Any repair or replacement parts purchased by the owner for the aircraft would not have qualified for the exemption.

EXAMPLE 3 – Aircraft – Non-Qualifying: A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. They elect the mileage test method on the Rolling Stock Certification form and use flight hours instead of mileage. During the first 12-month period, the aircraft had 400 hours of flight time. Of that total, 250 hours were for the transportation of company employees. Another 50 hours were for nonqualifying intrastate flights for hire. The remaining 100 hours of flight time were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of their flight hours (300/400) were for nonqualifying movements.

EXAMPLE 4 – Watercraft – Qualifying: An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois (144 nautical mile movement) where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri (148 nautical mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The watercraft then continues to Cape Girardeau, Missouri (102 nautical mile movement) and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The watercraft then returns empty to Chicago (394 nautical mile movement) from the delivery in Cape Girardeau (qualifies as interstate trip because returning from qualifying trip (see subsection (e)(5))). The watercraft is considered to have traveled a total of 788 qualifying nautical miles. If these were all the miles that the watercraft traveled within the first 12-month period (or were all the miles that watercraft traveled in a subsequent 12-month period), it would qualify for the test set forth in this subsection (g) for that 12-month

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

period because 100% of its miles were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the watercraft would also have qualified for the exemption.

EXAMPLE 5 – Watercraft – Non-Qualifying: If the watercraft described in Example 4 had traveled instead a total of 2788 nautical miles during that 12-month period with 2000 of those nautical miles not being documented as qualifying nautical miles, the watercraft would not have qualified for the exemption because it only had 788 qualifying nautical miles out of 2788 nautical miles for a 28.26% qualifying percentage. Any repair or replacement parts purchased for the watercraft would not have qualified for the exemption.

- 4) Repair and Replacement Parts for Motor Vehicles, Trailers, Aircraft and Watercraft:
- A) Motor Vehicles and Trailers. The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. (See 35 ILCS 120/2-51(c) and (d).)
- B) Aircraft and Watercraft. Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft or watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in this subsection (g) for aircraft and watercraft, regardless of when the aircraft or watercraft was purchased. Persons who purchased aircraft or watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft or watercraft as a part thereof qualifies as

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

rolling stock moving in interstate commerce under this subsection (g). [35 ILCS 120/2-51(e)]

- h) Certification of Exemption. In order to properly claim the rolling stock exemption, the purchaser must give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is an interstate carrier for hire, the purchaser must include its U.S. Department of Transportation Number (USDOT Number) and Interstate Operating Authority Number (MC Number) issued by the Federal Motor Carrier Safety Administration or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an MC Number. In the latter event, the carrier must include its USDOT Number. If the carrier is a type that is subject to regulation by some federal government regulatory agency other than the Federal Motor Carrier Safety Administration, the carrier must include its registration number from the other federal government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser is a long term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire as provided in this subsection (i.e., USDOT Number, MC Number, other number if appropriate). If the purchaser is an owner, lessor or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property. The giving of a certification does not preclude the Department from going behind it and disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases in which the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact or facts that show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require the purchaser to provide a copy of the purchaser's (or carrier's, when the purchaser is not the carrier) Federal Motor Carrier Safety Administration or other federal government regulatory agency Certificate of Operating Authority (or as much of the certificate as the Department deems adequate to verify the fact that the purchaser (or carrier, when the purchaser is not the carrier) is an interstate carrier for hire) whenever the Department deems that to be necessary. In cases in which the interstate carrier for hire is not required by law to have a USDOT Number,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

MC Number, or other federal government regulatory agency number, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

- e) This subsection applies to motor vehicles and trailers for purposes of subsections (f), (h) and (i) of this Section.
- 1) ~~The first 12 month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12 month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. Motor vehicles and trailers must continue to be used in a qualifying manner for each consecutive 12 month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).~~
 - 2) ~~When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which the property is no longer subject to a qualifying lease. The provisions of this subsection (e)(2) apply equally to owners, lessors and shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- f) ~~From August 14, 1999 through June 30, 2003, pursuant to Public Act 91-0587, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period. [35 ILCS 120/2-51] The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. The vehicle or trailer must continue to be used in a qualifying manner for each consecutive 12-month period. The Department will apply the provisions of this subsection in determining whether the items qualify for exempt status under this Section for all periods in which liability has not become final or for which the statute of limitations for filing a claim has not expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court of this State.~~
- 1) ~~If a vehicle or trailer carries persons or property for hire in interstate commerce on 15 or more occasions in the first 12-month period or in a subsequent 12-month period, but then does not carry persons or property for hire in interstate commerce on 15 or more occasions in a subsequent 12-month period, the vehicle, trailer, or any property attached to that vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price. For example, if a vehicle was used in a qualifying manner for the first 12-month period, but was not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price even if it was then used in a qualifying manner in the third 12-month period.~~
- 2) ~~For repair or replacement parts to qualify for the rolling stock exemption, the vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. For example, if repair parts were attached or~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and the 12-month periods thereafter in order for the parts to continue to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.~~

- 3) ~~For vehicles, trailers, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part of the motor vehicle or trailer that are *purchased by a lessor*, for lease to an interstate carrier for hire, by lease *executed or in effect at the time of the purchase*, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (f)(3) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~
- 4) ~~The provisions of Public Act 91-0587 did not change the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act.~~
 - A) ~~For example, a vehicle was purchased on January 15, 2000 and titled and registered on that date and was used in a qualifying manner for the first 12-month period ending on January 15, 2001. However, that vehicle was not used in a qualifying manner at anytime thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~vehicle would expire on June 30, 2003.~~

- B) ~~For example, a vehicle was purchased for lease to an interstate carrier for hire on August 15, 2000 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The qualifying lease ended on November 15, 2001, and the vehicle was no longer used in a qualifying manner. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on December 31, 2003.~~
- g) ~~When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an Interstate Commerce Commission Certificate of Authority. In the latter event, the carrier must include its Illinois Commerce Commission Certificate of Registration number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type that is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser is a long term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire. The giving of a certification does not preclude the Department from going behind it and disregarding it if, in examining the purchaser's records or activities, the Department finds that the certification was not true as to some fact or facts that show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require a copy of the carrier's Interstate Commerce Commission or other Federal Government regulatory agency Certificate of Authority or Illinois Commerce Commission Certificate of Registration (or as much of the certificate as the Department deems adequate to verify the fact that the carrier is an interstate carrier for hire) to be provided whenever the Department deems that to be necessary.~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- h) ~~Beginning on July 1, 2003 through June 30, 2004, Public Act 93-0023 imposed a new rolling stock exemption test for motor vehicles, trailers, and repair and replacement parts for motor vehicles and trailers.~~
- 1) ~~Motor vehicles:~~
- A) ~~For purposes of this Section, the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code. Because of the commercial distribution fee sales tax exemption provided in Section 130.341 of this Part, purchasers of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] are exempt from tax regardless of whether those vehicles are used in a manner that qualifies for the rolling stock exemption. All other motor vehicles are subject to the provisions of this Section except that such motor vehicles must meet the following test to qualify as rolling stock instead of the previous test set forth in subsection (f). A motor vehicle must, during a 12 month period, carry persons or property for hire in interstate commerce for 51 percent of its total trips to qualify for the exemption. [35 ILCS 120/2-51]~~
- B) ~~Trips by motor vehicles that are only between points in Illinois are not counted as interstate trips when calculating whether the motor vehicle qualifies for the exemption, but such trips are included in the total trips taken within the 12-month period. The trips that are only between points in Illinois are not counted as interstate trips even if those motor vehicles are transporting, for hire, persons whose journeys or property whose shipments originate or terminate outside of Illinois on other carriers. For an interstate trip to qualify, it must be for hire. However, the total amount of trips taken by a motor vehicle within the 12-month period includes trips for hire and those not for hire. An example of a not for hire trip is when a business uses its truck to transport its own merchandise.~~
- C) ~~Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips taken by that motor vehicle. The Department shall use its best judgment and information to determine the number of trips represented by such mileage. A trip whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip for hire. A trip whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip for hire.~~

D) ~~Examples of application of the 51% trips test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. The carrier continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (h) for that 12-month period because it made 3 qualifying trips for hire that terminated or originated outside of Illinois and only one intrastate trip, thereby resulting in a percentage of 75% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered. The carrier then continues to Gary, Indiana and picks up property for use by that carrier's business. The carrier then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (h) for that 12-month period because it made no qualifying trips for hire that terminated or originated outside of Illinois.~~

- ~~E) Motor vehicles must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).~~
- ~~F) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (h)(1)(F) apply equally to owners, lessors or shippers who purchase tangible personal~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.~~

- 2) ~~Trailers—For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code. The test provided in subsection (h)(1) of this Section does not apply to trailers.~~
- 3) ~~Repair and replacement parts for motor vehicles and trailers~~
 - A) ~~Repair and replacement parts for motor vehicles—repair and replacement parts purchased on and after July 1, 2003 must meet the test regarding motor vehicles described in subsection (h)(1) of this Section to qualify for the rolling stock exemption.~~
 - B) ~~Repair and replacement parts for trailers—repair and replacement parts purchased on and after July 1, 2003 are not subject to the test provided in subsection (h)(1).~~
- 4) ~~Application of 51% test to motor vehicles and trailers that are currently in a 12-month period under the 15-trip test~~
 - A) ~~Motor vehicles that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003, then the new 51% test provided in subsection (h)(1) will apply for such 12-month period. Any 12-month period beginning on or after July 1, 2003 is subject to the 51% test provided in subsection (h)(1).~~
 - B) ~~Trailers that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of their 12-month~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~period began on or after January 1, 2003 and before July 1, 2003, then the 15 trip test will no longer apply beginning July 1, 2003.~~

- i) ~~Beginning on July 1, 2004, Public Act 93-1033 imposed a new rolling stock exemption test for motor vehicles and trailers, and repair and replacement parts for motor vehicles and trailers.~~
- 1) ~~Motor Vehicles:~~
- A) ~~For purposes of this subsection (i), the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].~~
- B) ~~Beginning on July 1, 2004, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. Motor vehicles whose gross vehicle weight rating is 16,000 pounds or less that were purchased prior to July 1, 2004 and had qualified for the rolling stock exemption under subsection (f) or (h) of this Section will continue to qualify for the rolling stock exemption as long as those motor vehicles meet the applicable requirements under those subsections until such time as the Department is no longer able to issue a Notice of Tax Liability for the purchase of those motor vehicles. See subsection (e)(1) of this Section.~~
- C) ~~For purchases of motor vehicles made on and after July 1, 2004, a motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out of State retailer or from a non-retailer, the election must be~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(1)(C), the owner will be deemed to have chosen the mileage method. Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption shall not be changed. [35 ILCS 120/2-51]~~

- D) ~~Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip or mileage. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip or mileage. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that motor vehicle. If the trips method has been chosen for that motor vehicle, the Department shall use its best judgment and information to determine the number of trips represented by such mileage. A movement whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire. The provisions of subsection (d) of this Section will apply to any trip or mileage that occurs on or after July 1, 2004.~~
- E) ~~Examples of application of the greater than 50% trips test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.~~

~~EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient. The truck then continues to Gary, Indiana and picks up property for use by that carrier's business. The truck then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (i) for that 12-month period because those trips resulted in a 0 percentage of qualifying interstate trips for hire.~~

F) ~~Example of application of the greater than 50% mileage test:~~

~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from City A in Illinois to City B in Illinois (88-mile movement) where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to City C in Indiana and delivers part of that property in that city (125-mile movement). The truck then continues to City D in Indiana (151-mile movement) and delivers the remainder of the property in that city. The truck then returns empty to City A in Illinois (204-mile movement) from the delivery~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~in City D in Indiana. The truck is considered to have driven a total of 568 qualifying miles. If this were all the miles that the truck drove within the first 12-month period after it was purchased (or was all the mileage that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair and replacement parts purchased for the truck would also have qualified for the exemption.~~

~~EXAMPLE 2: If the truck described above in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair and replacement parts purchased for the truck would not have qualified for the exemption.~~

2) Trailers:

- A) ~~For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code; a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code. For purchases of a trailer made on or after July 1, 2004, to qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period.~~
- B) ~~Except as provided in subsection (i)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records.~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

If no election is made as required under the provisions of this subsection (i)(2)(B), the owner will be deemed to have chosen the mileage method.

- C) ~~Beginning on July 1, 2004, the owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect to alternatively document the qualifying use of those trailers in the following manner:~~
- ~~i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption;~~
 - ~~ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption; or~~
 - ~~iii) if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (i)(1) of this Section, then the percentage of those trailers that qualify for the exemption is equal to the percentage of the motor vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (i)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (i)(2) of this Section.~~
- D) ~~For purposes of this subsection (i), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to (used exclusively by) the company's 2 trucks. Both these trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. Both the trailers will be considered to have met the requirements for the exemption during those periods.~~

~~EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to (used exclusively by) a subsidiary company's 20 truck fleet. Only 19 of those 20 trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.~~

- 3) ~~Repair and Replacement Parts:~~
~~The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month qualifying period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month qualifying period thereafter.~~

j) ~~Application of Rolling Stock Test~~

- 1) ~~Motor Vehicles and Trailers~~
~~The test applicable to the purchase of a motor vehicle or trailer will depend upon the test in effect for the first 12-month qualifying period for that motor vehicle or trailer. For motor vehicles and trailers, the test in effect for the first 12-month qualifying period for that motor vehicle or trailer will remain the test for the remaining 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. A change in the rolling stock test in a subsequent 12-month qualifying period will not change the test for the exemption from tax for the purchase of that~~

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

~~motor vehicle or trailer. However, a change in the rolling stock test in a subsequent 12-month qualifying period will impact the test used in regards to purchases of repair and replacement parts for that motor vehicle or trailer. See subsection (i)(4)(B).~~

~~EXAMPLE: A motor vehicle is purchased on October 1, 2003 and is licensed and titled on that date. The motor vehicle's first 12-month qualifying period begins on October 1, 2003 and runs through September 30, 2004. The rolling stock test applicable to that motor vehicle for its first 12-month qualifying period is the test set out in subsection (h) of this Section. That test will remain in effect for all subsequent 12-month qualifying periods until such time as the Department is no longer able to issue a Notice of Tax Liability in regards to the purchase of that motor vehicle. The change in the rolling stock test set out in subsection (i) of this Section has no impact on the tests applied to the motor vehicle's subsequent 12-month qualifying periods for purposes of claiming the exemption on the purchase of that motor vehicle.~~

2) ~~Repair and Replacement Parts~~

~~The test applicable to the purchase of repair and replacement parts for a motor vehicle or trailer that is used as rolling stock will depend upon the test in effect during the motor vehicle's or trailer's 12-month qualifying period in which the purchase of the parts was made. If the rolling stock test is changed during a 12-month qualifying period, the test for parts purchased in that 12-month qualifying period will be the test in effect during the majority of that 12-month qualifying period as described in the following chart. See subsections (j)(2)(A)-(C). Repair and replacement parts purchased during a specific 12-month qualifying period will remain subject to the test for that period and subsequent 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. For ease of referencing the changes in the rolling stock tests, the following rolling stock tests described in the specified subsections will be referred to as:~~

subsection (f)	15 trips test
subsection (h)	51% trips test
subsection (i)	greater than 50% trips or miles test

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- A) ~~Prior to January 1, 2003:
If a motor vehicle's or trailer's 12-month qualifying period starts prior to January 1, 2003, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 15 trips test set out in subsection (f) of this Section.~~
- B) ~~On or after January 1, 2003 but before January 1, 2004:
If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2003, but before January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 51% trips test set out in subsection (h) of this Section.~~
- C) ~~On or after January 1, 2004:
If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the greater than 50% trips or miles test set out in subsection (i) of this Section.~~
- k) ~~Public Act 95-0528 provides that limousines, purchased on or after August 28, 2007, that would not otherwise qualify for the rolling stock exemption because of the 16,000 pound gross vehicle weight rating limitation described in subsection (i)(1)(B) of this Section, may qualify for the rolling stock exemption if the use of the vehicle otherwise meets the requirements set out in subsection (i) of this Section. This subsection (k) applies only to limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.90 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)]
- 5) Complete Description of the Subjects and Issues Involved: The Secretary of State's office uses facial recognition technology as a biometric identifier to ensure the integrity of our identification and credentialing process. This system works best with full-face, unobstructed photographs of driver's license applicants. However, this office has long recognized that observation of religious beliefs require some individuals to wear religious head dressings whenever they are in public. These individuals include, for example, Catholic nuns wearing habits, Sikh men wearing turbans, and Muslim women wearing hijabs. In order to strike a balance between the religious beliefs of these individuals and the operational needs of our office, we have allowed photographs to be taken where the applicant is wearing "religious head dressings not covering any areas of the open face". This exception is available to all individuals who wear religious head dressings whenever they are in public, without regard to the particular religion involved. However, this exception was never intended to apply to religious head dressings that the applicant can remove in public without violating his or her religious beliefs, nor does it apply to non-religious head dressings. Our preference remains full-face, unobstructed photographs. This exception is solely for the purpose of accommodating religious beliefs that prohibit a full-face, unobstructed photograph. This rulemaking clarifies the limited application of the religious head dressing exception.
- 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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

10) Are there any other rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1030.5	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.6	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.7	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.17	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.25	Amendment	40 Ill. Reg. 8039; June 10, 2016
1030.89	Amendment	40 Ill. Reg. 8039; June 10, 2016

11) Statement of Statewide Policy Objective: The proposed amendment does not require expenditures by units of local government.

12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Nathan Maddox
Senior Legal Advisor
298 Howlett Building
Springfield IL 62756

217/785-3094
nmaddox@ilsos.net

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

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

13) Initial Regulatory Flexibility Analysis:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Unknown
 - 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 either of the most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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

Section	
1030.1	Definitions
1030.5	Procedure for Obtaining a Driver's License
1030.6	Procedure for Obtaining a Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a)
1030.7	Procedure for Obtaining a Non-Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a-5)
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License (Renumbered)
1030.12	Identification Cards for the Homeless
1030.13	Denial of License or Permit
1030.14	Emergency Contact Database
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.22	Medical Examiner's Certificate – CLP or CDL Holders
1030.25	Safe Driver License Renewals
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers (Repealed)
1030.65	Instruction Permits
1030.66	Adult Driver Education
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1030.82 Charter Bus Driver Endorsement Requirements
- 1030.83 Hazardous Material Endorsement
- 1030.84 Vehicle Inspection
- 1030.85 Driver's License Testing/Road Test
- 1030.86 Multiple Attempts – Written and/or Road Tests
- 1030.88 Exemption of Facility Administered Road Test
- 1030.89 Temporary Driver's Licenses and Temporary Instruction Permits
- 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License
- 1030.91 Person with a Disability Identification Card
- 1030.92 Restrictions
- 1030.93 Restricted Local Licenses
- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Endorsement or Learner's Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.150 Veteran Designation on Driver's License or Identification Card

- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents – Applicants for a Driver's License, Instruction Permit, Visa Status Temporary Visitor's Driver's License Pursuant to IVC Section 6-105.1(a) or Visa Status Temporary Visitor's Instruction Permit
- 1030.APPENDIX C Acceptable Identification Documents – Applicants for a Non-Visa Status Temporary Visitor's Driver's License or Non-Visa Status Temporary Visitor's Instruction Permit Pursuant to IVC Section 6-105.1(a-5)

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014;

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill. Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. 11531, effective July 28, 2015; amended at 39 Ill. Reg. 14930, effective October 29, 2015; amended at 40 Ill. Reg. 1882, effective January 12, 2016; amended at 40 Ill. Reg. 7330, effective May 2, 2016; amended at 40 Ill. Reg. _____, effective _____.

Section 1030.90 Requirement for Photograph and Signature of Licensee on Driver's License

- a) Application
Every driver's license issued pursuant to IVC Section 6-110 shall include, as an integral part of the license, a head and shoulder, full-faced color photograph of the driver to whom the driver's license is being issued. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses ~~and religious head dressings not covering any areas of the open face~~ may be allowed. The driver's license shall be a photographically generated document that also includes the required information pertaining to the driver, the driver's signature, and other special security features to reduce the possibility of alteration and/or illegal reproduction. The driver's license must utilize a photograph taken of the driver at a Driver Services Facility that is produced by equipment specifically designed for this purpose. The driver's license must utilize a photograph and signature updated at least every 8 years, unless the driver holds a military deferral certificate or civilian employee deferral card issued by the Department.
- b) Exceptions
Exceptions may be made in the best interest of individual Illinois drivers as follows:
 - 1) Established Religious Convictions
 - A) A driver will not be required to submit to a photograph if sufficient justification is provided by the driver to establish that a photograph would be in violation of or contradictory to the driver's religious convictions. If a driver declares that the use of a photograph is against his/her religious convictions, the driver will be given an Affidavit to be completed. This Affidavit contains designated areas for a detailed written explanation of the reasons why a photograph

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

is against the driver's religious convictions, a place for the driver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the driver has offered, along with the date and official title of the minister or religious leader.

- B) The Affidavit shall be forwarded by the driver to the Driver Services Department Central Office in Springfield where a review and a decision will be made by the Director of the Driver Services Department relative to the issuance or non-issuance of a valid driver's license without photograph. To assist the Director in this decision, a committee of three administrative personnel will be appointed by the Director. Each Affidavit will be reviewed by each member of the committee, and each individual recommendation will be made to the Director for his final decision.
- C) A non-photo temporary driver's license, not to exceed 90 days in duration, shall be issued to allow for driving privileges during the interim period while the Affidavit will be reviewed and a decision will be made by the Director.
- D) Upon approval by the Director, a valid driver's license without a photograph will be issued from the Central Office utilizing an application signed by the driver. The driver's license will be mailed to the driver's home address.

2) Facial Disfigurements

- A) When a driver requests a driver's license without a photograph because the driver states that it is embarrassing or distasteful to submit to a photograph because of a facial disfigurement caused by disease, trauma or congenital condition, the requirement of a photograph may be waived. The Supervisor of the Driver Services Facility in which the driver appears shall make a decision, based upon the extent of the facial disfigurement, regarding the issuance of a driver's license without a photograph. Should the Supervisor approve the issuance of a driver's license without a photograph, the driver's license will be issued from the Central Office utilizing an

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

application signed by the driver. The driver's license will be mailed to the driver's home address.

- B) Should the Supervisor not approve the issuance of a driver's license without a photograph, the Supervisor will forward a written statement from the driver, along with a statement from the Supervisor providing detailed information to the Director of the Driver Services Department regarding the extent of the disfigurement and the Supervisor's justification for disapproval. The Director of the Driver Services Department may obtain further information and/or professional opinions to support an objective decision regarding whether a valid driver's license without the photograph may be issued.
 - C) A non-photo temporary driver's license, not to exceed 90 days in duration, shall be issued to allow driving privileges during the interim period while the driver's license is being issued, or the statements relating to disapproval are being reviewed and a decision is being made.
 - D) Upon approval by the Director, a valid driver's license without a photograph will be issued from the Central Office utilizing an application signed by the driver. The driver's license will be mailed to the driver's home address.
- 3) Out-of-State
- A) Drivers who are temporarily residing outside the State of Illinois and/or who are temporarily absent from the State at the expiration date of the driver's license may apply for a valid driver's license without photograph and signature because of their inability to appear at an Illinois Driver Services Facility. If an Illinois driver declares, in writing, that he/she is out-of-state at the time the driver's license must be renewed, and submits this information with the properly completed application and renewal fee, a driver's license may be issued without the driver's photograph and signature.
 - B) However, the driver will be informed that he/she must appear at a

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Driver Services Facility within 45 days upon returning to Illinois and exchange this valid driver's license without photograph and signature for a driver's license containing the driver's photograph and signature. This replacement driver's license is issued without additional charge to the driver. If the driver does not return to Illinois and obtain a replacement driver's license with the photograph and signature, the driver's license without the photograph and signature may not be renewed upon expiration unless the driver submits an affidavit attesting to the fact that he/she has not returned to the State of Illinois during the term of the driver's license without the photograph and signature.

- C) A non-photo temporary driver's license may be issued to those drivers who plan to return to Illinois within a 90-day period. If a driver's license renewal examination is required, this examination must be taken and will not be waived. In those cases in which reciprocal agreements exist with driver's licensing entities in other jurisdictions, the Illinois examination shall be administered by a qualified representative of the jurisdiction, and the results reported to and accepted by the Illinois Department.

4) Religious Head Dressings

A) The wearing of religious head dressings for the photograph may be allowed if the head dressing does not cover any area of the open face and if the driver states that, in observation of a religious conviction, he or she wears the head dressing at all times when in public, unless circumstances require the removal of the head dressing. These circumstances may include, but are not limited to, medical examinations or visits to a hair dresser or barber.

B) A driver who meets the requirements of subsection (b)(4)(A) will be given a declaration to be signed. The declaration will include the following:

- i) A statement that, in observation of a religious conviction, the driver only removes the head dressing in public when removal is necessary (such as for a medical examination or a visit to a hair dresser or barber) and does not remove the

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

head dressing in public as a matter of courtesy or protocol (such as when entering a professional office or attending a worship service);

- ii) An acknowledgement that, if the Director of the Driver Services Department obtains evidence showing the driver does not wear religious head dressings at all times while in public, unless circumstances require the removal of the head dressing, the driver's license may be cancelled;
 - iii) The language "Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this declaration are true and correct."; and
 - iv) A place for the driver's signature and date.
- c) TVDL applicants or holders are not eligible for an exception under subsection (b)(3).
- d) Hearings
Should the Director deny the issuance of a driver's license without photograph and/or signature, the individual may appeal that decision by requesting in writing a hearing pursuant to IVC Section 2-118.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Freedom of Information Act
- 2) Code Citation: 2 Ill. Adm. Code 2026
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2026.100	Repealed
2026.110	Repealed
2026.200	Repealed
2026.210	Repealed
2026.300	Repealed
2026.310	Repealed
2026.400	Repealed
2026.410	Repealed
2026.500	Repealed
2026.510	Repealed
2026.520	Repealed
2026.ILLUSTRATION A	Repealed
2026.ILLUSTRATION B	Repealed
2026.ILLUSTRATION C	Repealed
2026.ILLUSTRATION D	Repealed
2026.ILLUSTRATION E	Repealed
2026.ILLUSTRATION F	Repealed
2026.APPENDIX B	Repealed
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]
- 5) A Complete Description of the Subjects and Issues Involved: The Part is outdated and must be replaced to allow the Workers' Compensation Commission (Commission) to operate in compliance with the Illinois Freedom of Information Act.
- 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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:
- Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601
- 312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXII: INDUSTRIAL COMMISSION

PART 2026
FREEDOM OF INFORMATION ACT [\(REPEALED\)](#)

SUBPART A: INTRODUCTION

Section	
2026.100	Summary and Purpose
2026.110	Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section	
2026.200	Person to Whom Requests Are Submitted
2026.210	Form and Content of Requests

SUBPART C: PROCEDURES FOR COMMISSION RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

Section	
2026.300	Timeline for Commission Response
2026.310	Types of Commission Response

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section	
2026.400	Appeal of a Denial
2026.410	Chairman's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS

Section	
2026.500	Inspection of Records at Commission Offices
2026.510	Copies of Public Records
2026.520	General Materials available from the Freedom of Information Officer

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

2026.APPENDIX A Forms

2026.ILLUSTRATION A	Request for Public Records
2026.ILLUSTRATION B	Approval of Request for Public Records
2026.ILLUSTRATION C	Denial of Request for Public Records
2026.ILLUSTRATION D	Partial Approval of Request for Public Records
2026.ILLUSTRATION E	Deferral of Response to Request for Public Records
2026.ILLUSTRATION F	FOIA Appeal, Chairman's Response

2026.APPENDIX B Fee Schedule for Duplication of Public Records

AUTHORITY: Implementing and authorized by The Freedom of Information Act (Supp. to Ill. Rev. Stat. 1983, ch. 116, pars. 201 et seq.) and Section 5-15 of The Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15).

SOURCE: Adopted at 8 Ill. Reg. 15451, effective August 10, 1984; repealed at 40 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 2026.100 Summary and Purpose

- a) These rules are established to implement the provisions of the Freedom of Information Act (P.A. 83-1013, effective July 1, 1984, Supp. to Ill. Rev. Stat. 1983, Ch. 116, pars. 201 et seq.). The purpose of these rules is to support the policy of providing public access to the public records in the possession of this Commission, while at the same time, protecting legitimate interests and maintaining administrative efficiency.
- b) These rules create a procedure by which the public may request and obtain public records. Therefore, they are being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15).

Section 2026.110 Definitions

- a) Terms used in these rules shall have the same meaning as in the Freedom of Information Act.
- b) "FOIA" means the Freedom of Information Act.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- c) "Freedom of Information Officer" means an individual responsible for receiving and responding to requests for public records.
- d) "Requestor" means a person who submits a request for public records in accordance with these rules.

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 2026.200 Person to Whom Requests Are Submitted

Requests for public records shall be submitted to the Freedom of Information Officer of this Commission. Requests shall be submitted to the following address:

Freedom of Information Officer

Name: Mrs. Elsie Kurasch
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1210
Chicago, Illinois 60601
Attn: FOIA Request

Section 2026.210 Form and Content of Requests

- a) Requests in accordance with the FOIA and these rules shall be made in writing. Such requests may be submitted on FOIA request forms provided by the Commission. (See Appendix A to these rules)
- b) Oral requests will be handled expeditiously. However, the required response times and the appeal procedures contained in the FOIA and these rules do not apply to oral requests.
- c) The requestor shall provide the following information in a request for public records:
 - 1) The requestor's full name, address and phone number.
 - 2) A brief description of the public records sought, being as specific as possible.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- 3) Whether the request is for inspection of public records, copies of public records, or both.

SUBPART C: PROCEDURES FOR COMMISSION RESPONSE
TO REQUESTS FOR PUBLIC RECORDS**Section 2026.300 Timeline for Commission Response**

- a) The Commission shall respond to a written request for public records within 7 working days after the receipt of such request.
- b) The Commission may give notice of an extension of time to respond which does not exceed an additional 7 working days. Such an extension is allowable only if written notice is provided within the original 7 working day time limit and only for the reasons provided in Section 3(d) of the FOIA. Such notice of extension shall state the reasons why the extension is necessary.

Section 2026.310 Types of Commission Responses

- a) The Commission shall respond to a request for public records in one of three ways:
 - 1) Approve the request.
 - 2) Approve in part and deny in part.
 - 3) Deny the request.
- b) Upon approval of a request for public records, the Commission may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs or give notice of the time and place for inspection of records.
- c) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial in accordance with either Section 3(f) or Section 7 of the FOIA and the names and titles of individuals responsible for the decision. It shall also give notice to the requestor's right to appeal to the Chairman of the Commission.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- d) Categorical requests creating an undue burden upon the Commission shall be denied only after extending to the requestor an opportunity to confer in an attempt to reduce the request to manageable proportions in accordance with Section 3(f) of the FOIA.
- e) Failure to respond to a written request within 7 working days may be considered by the requestor a denial of the request.

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 2026.400 Appeal of a Denial

- a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Chairman of the Commission. The notice of appeal shall be made in writing and sent to:

Name: Acting Chairman Norman L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor, and a statement of the reasons why the appeal should be granted.

Section 2026.410 Chairman's Response to Appeal

The Chairman shall respond to an appeal within 7 working days after receiving notice thereof. The Chairman shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days may be considered by the requestor an affirmation of the denial.

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS**Section 2026.500 Inspection of Records at Commission Offices**

- a) Generally, public records will be made available for inspection during normal

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

working hours of the Commission at the office of the Freedom of Information Officer.

- b) Documents which the requestor wishes to have copied shall be segregated during the course of the inspection. For purposes of convenience, copying may be done by the requestor or by Commission employees.
- c) Unless otherwise arranged, the inspection of records shall take place at the office of the Freedom of Information Officer. For purposes of convenience, either the Commission or the requestor may request that inspection take place in another Commission office location.
- d) An employee of the Commission may be present throughout the inspection. A requestor may be prohibited from bringing bags, brief cases or other containers into the inspection room.

Section 2026.510 Copies of Public Records

- a) Copies of public records shall be provided to the requestor only upon payment of any charges which are due.
- b) Charges for copies of public records shall be assessed in accordance with "Fee Schedule for Duplication of Public Records" attached as Appendix B to these rules.
- c) Charges shall be waived if the requestor is a State agency, a constitutional officer or a member of the General Assembly. Charges may be waived in any other case where the Freedom of Information Officer determines that the waiver serves the public interest.

Section 2026.520 General Materials available from the Freedom of Information Officer

The Freedom of Information Officer shall make available to the public at no charge the following materials:

- a) A brief description of the organizational structure and budget of the Commission;
- b) A brief description of the means for requesting information and public records;
and

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

- c) A list of types and categories and public records maintained by the Commission.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION A Request for Public Records

TO: _____	FROM: _____
FOI OFFICER	NAME
_____	_____
COMMISSION	ADDRESS
_____	_____
ADDRESS	_____
_____	_____
	PHONE NUMBER

DESCRIPTION OF REQUESTED RECORD(S)

Please indicate if you wish to inspect the above-captioned records or wish a copy of them:

Inspection Copy Both

Do you wish to have copies certified? Yes No

FOR OFFICE USE ONLY: _____

_____	_____
Date Received	Date Response Due

Notations re Oral Communications or Other Items.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION B Approval of Request for Public Records

TO: _____	FROM: _____
Name	FOI Officer
_____	_____
Address	Commission
_____	_____
_____	Address
_____	_____
Phone Number	

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been approved.

- The documents you requested are enclosed.
- The documents will be made available upon payment of copying costs in the amount of _____.
- You may inspect the records at _____ on _____ Date.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

FOI OFFICER

Date

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION C Denial of Request for Public Records

TO: _____	FROM: _____
Name	FOI Officer
_____	_____
Address	Commission
_____	_____
_____	Address
_____	_____
Phone Number	

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been denied:

- The request creates an undue burden on the public body in accordance with Section 3(f) of the Freedom of Information Act, and we were unable to negotiate a more reasonable request.
- The materials requested are exempt under Section 7____ of the Freedom of Information Act for the following reasons:

The individuals who have reached the determination that the records you have requested are to be denied are:

1. (Name and Title)
2. (Name and Title)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

You have the right to appeal the denial of the records you have requested to the Chairman of the Commission submitting a written notice of appeal to:

Name: Acting Chairman Norman L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

In submitting your notice of appeal, you should include copies of your original request and this denial, and state any reasons why your appeal should be granted.

FOI Officer

Date

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION D Partial Approval of Request for Public Records

TO: _____	FROM: _____
Name	FOI Officer
_____	_____
Address	Commission
_____	_____
_____	Address
_____	_____
Phone Number	

DESCRIPTION OF REQUESTED RECORDS:

Your request dated _____ for the above-captioned records has been partially approved. Those parts of your request which have been approved:

- are enclosed.
- will be made available upon payment of copying costs in the amount of _____.
- may be inspected at _____ on _____.
(date)

The following portions of your request have been denied for the reasons cited:

The individuals who have reached the determination that the records you have requested are to be denied are:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

1. (Name and Title)
2. (Name and Title)

You have the right to appeal the denial of the records you have requested to the Chairman of the Commission by submitting a written notice of appeal to:

Name: Acting Chairman Norma L. Brown
Address: Illinois Industrial Commission
160 N. LaSalle St., Room 1200
Chicago, Illinois 60601
Attn: FOIA Appeal

In submitting your notice of appeal, you should include copies of your original request and this denial, and state any reasons why your appeal should be granted.

FOI Officer

Date

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION E Deferral of Response to Request for Public Records

TO: _____	FROM: _____
Name	FOI Officer
_____	_____
Address	Commission
_____	_____
_____	Address
_____	_____
Phone Number	

DESCRIPTION OF RECORDS REQUESTED:

The response to your request dated _____ for the above-captioned records must be delayed. The delay in response to your request is for the following reason(s):

(Provide reason for delay in accordance with Section 3(d) of the FOIA.)

You will be notified by _____ as to the action taken
(date)

_____	_____
FOI Officer	Date

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX A Forms

Section 2026.ILLUSTRATION F FOIA Appeal Chairman's Response

TO: _____	FROM: _____
Name	FOI Officer
_____	_____
Address	Commission
_____	_____
	Address
_____	_____
Phone Number	

DESCRIPTION OF RECORDS REQUESTED:

Noted below is the action I have taken on your appeal from the denial of your request for the above-captioned records:

- I hereby approve your appeal to the following extent and for the following reasons:
- I affirm the denial of your request made by the Freedom of Information Officer.

You are entitled to judicial review of any denial pursuant to Section 11 of the Freedom of Information Act.

_____	_____
Chairman	Date

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED REPEALER

Section 2026.APPENDIX B Fee Schedule for Duplication of Public Records

Type of Duplication	Per Copy Charge
Paper copy from paper original (possibly different charges for different sizes)	\$.10
Paper copy from microfilm original (possibly different charges for different sizes)	.10
Microfilm from microfilm original	30.00
Computer printout – paper	25.00 to 100.00 depending on complexity of computer run

Some records possessed by the Department are in book or pamphlet form. A charge may be assessed for such materials based upon the cost of such materials incurred by the Department.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Access to Records of the Workers' Compensation Commission
- 2) Code Citation: 2 Ill. Adm. Code 2026
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2026.105	New Section
2026.115	New Section
2026.205	New Section
2026.215	New Section
2026.225	New Section
2026.235	New Section
2026.305	New Section
2026.315	New Section
2026.325	New Section
2026.405	New Section
2026.415	New Section
2026.425	New Section
2026.435	New Section
2026.445	New Section
2026.455	New Section
2026.465	New Section
2026.475	New Section
2026.505	New Section
2026.515	New Section
2026.525	New Section
2026.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]
- 5) A Complete Description of the Subjects and Issues Involved: The new Part is designed to allow the Workers' Compensation Commission (Commission) to operate in compliance with the Illinois Freedom of Information Act. The proposed Part is designed to replace rules that are outdated due to legislative changes in the Illinois Freedom of Information Act.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXII: WORKERS' COMPENSATION COMMISSION

PART 2026

ACCESS TO RECORDS OF THE WORKERS' COMPENSATION COMMISSION

SUBPART A: INTRODUCTION

Section	
2026.105	Summary and Purpose
2026.115	Definitions

SUBPART B: CLASSIFICATION OF RECORDS

Section	
2026.205	Records that Will Be Disclosed
2026.215	Records that Will Be Withheld from Disclosure
2026.225	Statutory Exemptions
2026.235	Records Maintained Online

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE COMMISSION

Section	
2026.305	Submittal of Requests for Records
2026.315	Information To Be Provided in Requests for Records
2026.325	Requests for Records for Commercial Purposes

SUBPART D: COMMISSION RESPONSE TO REQUESTS FOR RECORDS

Section	
2026.405	Timeline for Commission Response
2026.415	Requests for Records that the Commission Considers Unduly Burdensome
2026.425	Recurrent Requesters
2026.435	Requests for Records that Require Electronic Retrieval
2026.445	Denials of Requests for Records
2026.455	Requests for Review of Denials – Public Access Counselor
2026.465	Circuit Court Review

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

2026.475 Administrative Review

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section

2026.505 Inspection and Copying of Records
2026.515 Fees for Records
2026.525 Reduction and Waiver of Fees

2026.APPENDIX A Fee Schedule for Duplication and Certification of Records

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

SOURCE: Adopted at 8 Ill. Reg. 15451, effective August 10, 1984; former Part repealed at 40 Ill. Reg. _____ and new Part adopted at 40 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 2026.105 Summary and Purpose

- a) This Part states the policy of the Workers' Compensation Commission (Commission) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.
- b) This Part:
 - 1) Establishes the following classifications for records in the Commission's possession:
 - A) Records that shall be disclosed; and
 - B) Records that shall be withheld from disclosure;
 - 2) Contains the procedures by which requesters may obtain records in the Commission's possession; and

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 3) Contains the procedures for claiming and determining that records submitted to the Commission are exempt from disclosure.

Section 2026.115 Definitions

Terms not defined in this Section shall have the same meaning as in the Freedom of Information Act [5 ILCS 140]. The following definitions are applicable for purposes of this Part:

"Act" means the Illinois Workers' Compensation Act [820 ILCS 305].

"Chairman" means the Chairman of the Commission.

"Commercial purpose" means the use of any part of a record or records, or information derived from records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is:

to access and disseminate information concerning news and current or passing events;

for articles or opinion or features of interest to the public; or

for the purpose of academic, scientific, or public research or education.
(Section 2(c-10) of FOIA)

"Commission" means the Workers' Compensation Commission as established by the Act and WODA.

"Copying" means the reproduction of any record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Commission. (Section 2(d) of FOIA)

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

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

"News media" means a newspaper or other periodical issued at regular intervals, news service in paper or electronic form, radio station, television station, television network, community antenna television service, or person or corporation engaged in making news reels or other motion picture news for public showing. (Section 2(f) of FOIA)

"Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group. (Section 2(b) of FOIA)

"Private information" means unique identifiers, including a person's Social Security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. (Section 2(c-5) of FOIA)

"Public Access Counselor" means an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, State universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing, including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code [105 ILCS 5]. (Section 2(a) of FOIA)

"Records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of or under the control of the Commission. (Section 2(c) of FOIA)

"Recurrent requester" means a person that, in the 12 months immediately preceding the request, has submitted to the same public body a minimum of 50

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

requests for records, a minimum of 15 requests for records within a 30-day period, or a minimum of 7 requests for records within a 7 day period. For the purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods, in this definition when the principal purpose of the requests is to access and disseminate information concerning news and current or passing events, for articles of opinion or features of interest to the public, or for the purpose of academic, scientific, or public research or education. For the purposes of this definition, "request" means a written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied. (Section 2(g) of FOIA)

"Requester" is any person who has submitted to the Commission a written request, electronically or on paper, for records.

"Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. (Section 7(1)(c) of FOIA)

"WODA" means the Illinois Workers' Occupational Diseases Act [820 ILCS 310].

SUBPART B: CLASSIFICATION OF RECORDS

Section 2026.205 Records that Will Be Disclosed

Upon request meeting the requirements of this Part, the Commission shall disclose to the requester all records requested except that it shall not disclose certain records as provided in Section 2026.215 or 2026.225. Records covered under this Section shall include, but are not limited to:

- a) *Records of funds. All records relating to the obligation, receipt and use of public funds of the Commission are records subject to inspection and copying by the public. (Section 2.5 of FOIA)*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- b) *Payrolls. Certified payroll records submitted to the Commission under Section 5(a)(2) of the Prevailing Wage Act [820 ILCS 130] are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Commission prior to disclosure. (Section 2.10 of FOIA)*
- c) *Settlement and severance agreements. All settlement and severance agreements entered into by or on behalf of the Commission are records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 2026.215 or 2026.225 may be redacted. (Section 2.20 of FOIA)*

Section 2026.215 Records that Will Be Withheld from Disclosure

- a) For exemptions from FOIA that are stated in FOIA, see Section 7(1) of the Act.
- b) *A record that is not in the possession of the Commission but is in the possession of a party with whom the Commission has contracted to perform a governmental function on behalf of the Commission, and that directly relates to the governmental function and is not otherwise exempt under FOIA, shall be considered a record of the Commission for purposes of Subpart C. (Section 7(2) of FOIA)*

Section 2026.225 Statutory Exemptions

For exemptions from FOIA that are stated in other statutes, see Section 7.5 of the Act.

Section 2026.235 Records Maintained Online

- a) *Notwithstanding any provision of FOIA to the contrary, the Commission is not required to copy a public record that is published on the Commission's website. The Commission shall notify the requestor that the public record is available online and direct the requestor to the website where the record can be reasonably accessed.*
- b) *If the person requesting the public record is unable to reasonably access the record online after being directed to the website pursuant to subsection (a), the requester may resubmit his or her request for the record, stating his or her*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

inability to reasonably access the record on line, and the public body shall make the requested record available for inspection or copying. (Section 8.5 of FOIA)

SUBPART C: PROCEDURES FOR REQUESTING
RECORDS FROM THE COMMISSION**Section 2026.305 Submittal of Requests for Records**

- a) Any request for public records should be submitted in writing to the FOI Officer of the Commission.
- b) The Commission has one FOI Officer, located in the Chicago office.
- c) Contact information for each FOI Officer can be found online at www.Illinois.gov/Pages/FOIAContacts.
- d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Workers' Compensation Commission
100 West Randolph Street, Suite 8-200
Chicago, Illinois 60601
Attn: FOI Officer

- e) E-mailed requests should be sent to wcc.FOIA@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 312/814-3520, Attn: FOI Officer.

Section 2026.315 Information To Be Provided in Requests for Records

A request for records should include:

- a) The complete name, mailing address and telephone number of the requester;
- b) As specific a description as possible of the records sought. Requests that the Commission considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 2026.415 of this Part.);

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- c) A statement as to the requested medium and format for the Commission to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;
- d) A statement as to the requested manner for the Commission to use in providing the records sought: for example, inspection at Commission headquarters or providing paper or electronic copies;
- e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and
- f) A statement as to whether the request is for a commercial purpose.

Section 2026.325 Requests for Records for Commercial Purposes

- a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose if requested to do so by the Commission. (Section 3.1(c) of FOIA)*
- b) *The Commission shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*
 - 1) *Provide to the requester an estimate of the time required by the Commission to provide the records requested and an estimate of the fees to be charged, which the Commission may require the person to pay in full before copying the requested documents;*
 - 2) *Deny the request pursuant to one or more of the exemptions set out in Section 2026.215 or 2026.225;*
 - 3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *Provide the records requested. (Section 3.1(a) of FOIA)*
- c) *Unless the records are exempt from disclosure, the Commission shall comply with a request within a reasonable period considering the size and complexity of the*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

request, and giving priority to records requested for non-commercial purposes.
(Section 3.1(b) of FOIA)

SUBPART D: COMMISSION RESPONSE TO REQUESTS FOR RECORDS

Section 2026.405 Timeline for Commission Response

- a) Except as stated in subsection (b) or (c), the Commission will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Commission fails to respond to a request within the requisite periods in this subsection (a) but thereafter provides the requester with copies of the requested records, it will not impose a fee for those copies. If the Commission fails to respond to a request received, it will not treat the request as unduly burdensome as provided under Section 2026.415.* (Section 3(d) of FOIA) A written request from the Commission to provide additional information shall be considered a response to the FOIA request.
- b) *The time limits prescribed in subsection (a) may be extended for not more than 5 business days from the original due date for any of the following reasons:*
 - 1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*
 - 2) *The request requires the collection of a substantial number of specified records;*
 - 3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*
 - 4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*
 - 5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 6) *The request for records cannot be complied with by the Commission within the time limits prescribed by subsection (a) without unduly burdening or interfering with the operations of the Commission; or*
- 7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request. (Section 3(e) of FOIA)*
- c) *The person making a request and the Commission may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Commission agree to extend the period for compliance, a failure by the Commission to comply with any previous deadlines shall not be treated as a denial of the request for the records. (Section 3(e) of FOIA)*
- d) *When additional time is required for any of the reasons set forth in subsection (b), the Commission will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Commission fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Commission issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 2026.415. (Section 3(f) of FOIA)*

Section 2026.415 Requests for Records that the Commission Considers Unduly Burdensome

- a) *The Commission will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Commission, there is no way to narrow the request, and the burden on the Commission outweighs the public interest in the information. Before invoking this exemption, the Commission will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions. (Section 3(g) of FOIA) The amended request must be in writing.*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- b) If the Commission determines that a request is unduly burdensome, *it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Commission. The response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)
- c) *Repeated requests from the same person for records that are unchanged or identical to records previously provided or properly denied under this Part shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

Section 2026.425 Recurrent Requesters

- a) *Notwithstanding any provision of this Part to the contrary, the Commission will respond to a request from a recurrent requester, as defined in Section 2026.115, within 21 business days after receipt. The response shall:*
 - 1) *provide to the requester an estimate of the time required by the Commission to provide the records requested and an estimate of the fees to be charged, which the Commission may require the person to pay in full before copying the requested documents;*
 - 2) *deny the request pursuant to one or more of the exemptions set out in this Part;*
 - 3) *notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*
 - 4) *provide the records requested.*
- b) *Within 5 business days after receiving a request from a recurrent requester, the Commission will notify the requester that the Commission is treating the request as a recurrent request, of the reasons why the Commission is treating the request as a recurrent request, and that the Commission will send an initial response within 21 business days after receipt in accordance with subsection (a). The Commission will also notify the requester of the proposed responses that can be asserted pursuant to subsection (a).*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- c) *Unless the records are exempt from disclosure, the Commission will comply with a request within a reasonable period considering the size and complexity of the request. (Section 3.2 of FOIA)*

Section 2026.435 Requests for Records that Require Electronic Retrieval

- a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.
- b) The Commission will retrieve and provide electronic records only in a format and medium that is available to the Commission.

Section 2026.445 Denials of Requests for Records

- a) The Commission will deny requests for records when:
 - 1) Compliance with the request would unduly burden the Commission, as determined pursuant to Section 2026.415, and the requester has not reduced the request to manageable proportions; or
 - 2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 2026.215 or 2026.225 of this Part.
- b) The denial of a request for records must be in writing.
 - 1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);
 - 2) *Each notice of denial shall also inform the person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and
 - 3) *When a request for records is denied on the grounds that the records are exempt under Section 7 or 7.5 of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

the denial, including a detailed factual basis and a citation to the supporting legal authority (Section 9(b) of FOIA).

- c) A requester may treat the Commission's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.
- d) If the Commission has given written notice pursuant to Section 2026.405(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.
- e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Commission fails to act within the time periods provided in Section 2026.405.* (Section 9(c) of FOIA)

Section 2026.455 Requests for Review of Denials – Public Access Counselor

- a) *A person whose request to inspect or copy a record is denied by the Commission may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review shall be in writing, be signed by the requester, and include a copy of the request for access to records and any response from the Commission.* (Section 9.5(a) of FOIA)
- b) *A person whose request to inspect or copy a record is made for a commercial purpose may not file a request for review with the Public Access Counselor. A person whose request to inspect or copy a record was treated by the Commission as a request for a commercial purpose may file a request for review with the Public Access Counselor for the limited purpose of reviewing whether the Commission properly determined that the request was made for a commercial purpose.* (Section 9.5(b) of FOIA)
- c) *Within 7 business days after the Commission receives a request for review from the Public Access Counselor, the Commission shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- d) *Within 7 business days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Commission may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. (Section 9.5(d) of FOIA)*
- e) *The requester may, but is not required to, respond in writing to the answer within 7 business days and shall provide a copy of the response to the Commission. (Section 9.5(d) of FOIA)*
- f) *In addition to the request for review, and the answer and response to the request, if any, a requester or the Commission may furnish affidavits or records concerning any matter germane to the review. (Section 9.5(e) of FOIA)*
- g) *A binding opinion from the Attorney General shall be binding upon both the requester and the Commission, subject to administrative review under Section 2026.475. (Section 9.5(f) of FOIA)*
- h) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable. (Section 9.5(f) of FOIA)*
- i) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Commission will either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 2026.475. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 2026.475. (Section 9.5(f) of FOIA)*
- j) *If the Commission discloses records in accordance with an opinion of the Attorney General, the Commission is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA. (Section 9.5(f) of FOIA)*
- k) *If the requester files suit under Section 2026.465 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor. (Section 9.5(g) of FOIA)*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 1) *The Attorney General may also issue advisory opinions to the Commission regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Chairman of the Commission or the Commission's Chief Legal Counsel, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Commission in order to assist in the review. If the Commission relies in good faith on an advisory opinion of the Attorney General in responding to a request, the Commission is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. (Section 9.5(h) of FOIA)*

Section 2026.465 Circuit Court Review

A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA.

Section 2026.475 Administrative Review

A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law [735 ILCS 5/Art. III]. An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook County or Sangamon County. An advisory opinion issued to the Commission shall not be considered a final decision of the Attorney General for purposes of this Section. (Section 11.5 of FOIA)

SUBPART E: PROCEDURES FOR PROVIDING RECORDS TO REQUESTERS

Section 2026.505 Inspection and Copying of Records

- a) The Commission may make available records for personal inspection at the Commission's headquarters office located at 100 West Randolph Street, Chicago, or at another location agreed to by both the Commission and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Commission may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- b) *When a person requests a copy of a record maintained in an electronic format, the Commission shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Commission shall furnish it in the format in which it is maintained by the Commission, or in paper format at the option of the requester. (Section 6(a) of FOIA)*
- c) A requester may inspect records by appointment only, scheduled subject to space availability. The Commission will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 5:00 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Commission as soon as possible before the appointment.
- d) In order to maintain routine Commission operations, the requester may be asked to leave the inspection area for a specified period of time.
- e) The requester will have access only to the designated inspection area.
- f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Commission employee may be present during the inspection.
- g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

Section 2026.515 Fees for Records

- a) In accordance with Section 2026.525, unless a fee is otherwise fixed by statute, the Commission will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.
- b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Commission to reproduce records, the Commission will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. (Section 6(b) of FOIA)*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- c) In order to expedite the copying of records that the Commission cannot copy, due to the volume of the request or the operational needs of the Commission, in the timelines established in Section 2026.405, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Commission headquarters in Section 2026.501, or at another location agreed to by both the Commission and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.
- d) Copies of records will be provided to the requester only upon payment of any fees due. *The Commission may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Commission will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Commission, payable to "Illinois Workers' Compensation Commission".
- e) If a contractor is used to inspect or copy records, the following procedures shall apply:
- 1) The requester, rather than the Commission, must contract with the contractor;
 - 2) The requester is responsible for all fees charged by the contractor;
 - 3) The requester must notify the Commission of the contractor to be used prior to the scheduled on-site inspection or copying;
 - 4) Only Commission personnel may provide records to the contractor;
 - 5) The Commission must have verification that the requester has paid the Commission, if payment is due, for the copying of the records before providing the records to the contractor; and
 - 6) The requester must provide to the Commission the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- f) *The Commission may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The Commission may charge the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage company under contract with the Commission. If the Commission imposes a fee pursuant to this subsection (f), it must provide the requester with an accounting of all fees, costs, and personnel hours in connection with the request for public records. The provisions of this subsection (f) apply only to commercial requests. (Section 6(f) of FOIA)*

Section 2026.525 Reduction and Waiver of Fees

- a) *Fees may be reduced or waived by the Commission if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Commission will consider the following:*
- 1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*
 - 2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public. (Section 6(c) of FOIA)*
- b) *In setting the amount of the waiver or reduction, the Commission will take into consideration the amount of materials requested and the cost of copying them. (Section 6(c) of FOIA)*
- c) *The Commission will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- d) *Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of records when furnished in a paper format will not be applicable to those records when furnished to a requester in an electronic format. (Section 6(a) of FOIA)*

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

Section 2026.APPENDIX A Fee Schedule for Duplication and Certification of Records

TYPE OF DUPLICATION	FEE (PER COPY)
Paper copy from original, up to and including 50 copies of black and white, letter or legal sized copies	No charge
Paper copy from original, in excess of 50 copies of black and white, letter or legal sized copies	\$.15/page
Paper copy from microfilm original	\$.15/page
Microfilm diazo from original	\$.50/diazo
VHS video copy of tape	Actual cost of the reproduction
Audio tape copy of tape	Actual cost of the reproduction
CD ROM disk	Actual cost of the reproduction
Photograph from negative	Actual cost of the reproduction
Blueprints/oversized prints	Actual cost of the reproduction
Paper copies in color or in a size other than letter or legal	Actual cost of the reproduction
Certification fee	\$1.00/record

NOTE: Expense for delivery other than by First Class U.S. Mail must be borne by the requester.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Electronic Filing
- 2) Code Citation: 50 Ill. Adm. Code 9015
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9015.10	New Section
9015.20	New Section
9015.30	New Section
9015.40	New Section
9015.50	New Section
9015.60	New Section
- 4) Statutory Authority: Implementing the Electronic Commerce Security Act [5 ILCS 175] and authorized by Section 13 of the Illinois Workers' Compensation Act [820 ILCS 305/13]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed rules are designed to implement an electronic database. This Part sets forth procedures for the filing of documents electronically. It provides a method by which electronic documents are to be formatted, signed, filed and served. The rules provide guidance and procedures in the event of system errors. This Part further provides a procedure for the handling of confidential or protected information.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: Illinois Electronic Commerce Security Act: 5 ILCS 175. Illinois Supreme Court Order M.R. 18368: In re: Mandatory Electronic Filing in Civil Cases
- 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 on units of local government.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:
- Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601
- 312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9015

ELECTRONIC FILING

Section

9015.10	Overview of Electronic Filing
9015.20	Format
9015.30	Filing
9015.40	Signatures
9015.50	Service and Proof of Service
9015.60	Document Privacy and Errors in Electronic Filings

AUTHORITY: Implementing the Electronic Commerce Security Act [5 ILCS 175] and authorized by Section 13 of the Illinois Workers' Compensation Act [820 ILCS 305/13].

SOURCE: Adopted at 40 Ill. Reg. _____, effective _____.

Section 9015.10 Overview of Electronic Filing

- a) The Electronic Commerce Security Act [5 ILCS 175] (ECSA) authorizes State agencies to send and receive electronic records and electronic signatures to and from other persons and otherwise create, use, store and rely upon electronic records and electronic signatures. The purpose of the ECSA is to facilitate electronic communication by means of reliable electronic records, and to facilitate electronic filing of documents with State agencies. By virtue of the ECSA, and with guidance from Supreme Court Rules, the Illinois Workers' Compensation Commission adopts this Part.
- b) Pursuant to Section 13 of the Illinois Workers' Compensation Act (Act), the Chairman will set forth administrative guidelines for the implementation of a system by which all heretofore filed documents may be formatted and filed electronically. The Chairman shall set forth administrative procedures by which pro se nonattorney litigants may gain access to and file documents using the electronic filing system.
- c) Prior to filing any document electronically with the Commission, users are required to register with the Commission and provide all information as required

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

by the Commission's registration procedure. Users shall promptly update the required information. The Commission shall provide an identifier to all registered participants and a means to confirm that the filing was approved by an authorized user. The Attorney Registration and Disciplinary Commission number may be used as the identifier for attorneys to ensure that the attorney is licensed and in good standing.

- d) The e-filing system will allow the Commission to verify whether an attorney who registers as a user is authorized to practice in Illinois.
- e) Information, records and signatures shall not be denied legal effect, validity or enforceability solely on the grounds that they are in electronic form. Further, if the rule of law (i.e., statute, regulation or case law) requires information to be "written" or "in writing", or provides for certain consequences if it is not, an electronic record satisfies that rule of law.

Section 9015.20 Format

- a) Documents must be submitted in the format prescribed by the Commission or in PDF format directly from the program creating the document, rather than the scanned image of a paper document. All electronically filed documents shall include the case caption and nature of filing. Each document shall include the typed name, e-mail address and telephone number of the attorney filing the document.
- b) All electronically filed documents shall, to the extent possible, be formatted in accordance with this Part.
- c) Electronic documents containing links to material either within the filed document or external to the document are for convenience purposes only. The external material behind the link is not considered part of the filing or basic record.
- d) Bulk filing of multiple cases or multiple documents combined into one PDF document shall not be accepted. Documents with different workers' compensation numbers must be filed individually.
- e) Documents not complying with ECSA or this Part may be rejected.

Section 9015.30 Filing

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- a) The e-filing provider is an agent of the Commission for purpose of e-filing and receipt of electronic documents. Upon submission of the e-filed document, the e-filing provider will e-mail the registered user a transaction confirmation that includes the transaction number, a list of the documents submitted, and the date and time of submittal. The transaction number shall serve as proof of submittal.
- b) Filings may include pleadings, petitions, motions, proofs of service, exhibits or any other Commission authorized document. Communication between attorneys or attorneys and their clients shall not be filed electronically, unless part of a pleading, petition, motion or a Commission authorized document.
- c) A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.
- d) A document shall be considered timely filed if e-filed at any time before midnight on or before the date on which the document is due. A document submitted at/or after midnight or on a day that is not a Commission business day (see 50 Ill. Adm. Code 9020.10(c)) shall be considered filed the next Commission business day.
- e) The transmission date and time of transfer shall govern the electronic file mark. Each document reviewed and accepted for filing by the Commission will receive an electronic file stamp.
- f) If an e-filed document is untimely filed due to a technical failure or a system outage, the registered user may seek appropriate relief from the Commission.
- g) Proposed Decisions are to be submitted via e-mail directly to the Arbitrator in Microsoft Word format. For Proposed Decisions, only the proof of service must be e-filed.
- h) In any proceeding before the Commission, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of an electronic record or electronic signature. Information in the electronic record shall be given due evidentiary weight by the Commission.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- i) Any electronic document or record submitted to the Commission shall be deemed filed if not rejected by the Commission. The transmission date and time shall govern the electronic file mark.
- j) An e-filed document must not contain viruses or malware. The e-filing of a document constitutes a certification by the registered user that the document has been checked for viruses and malware.
- k) All filed documents that are required to be maintained and preserved must be kept for one year after the appellate process period has been completed.

Section 9015.40 Signatures

- a) When a rule of law requires a signature, or provides for certain consequences if a document is not signed, an electronic signature satisfies that rule of law.
- b) Any document electronically filed with a subscriber identifier is deemed to have been signed by the holder of the user identification and password.
- c) The original signed document that has been electronically filed shall be maintained and preserved by the party filing the document and presented to the Commission upon its request.
- d) Documents containing signatures of third parties may be filed electronically and shall bear a facsimile or typographical signature. If a document requires the signature of one or more persons not a party to the case or not registered for electronic filing, the subscriber must confirm all persons required to sign the document approve it. Original signatures of all nonregistered persons must be obtained before filing the document. The document must indicate the identity of each nonregistered signatory. The subscriber must retain the original document for one year after the date that the judgment has become final or the expiration of the time for seeking review. The subscriber must make the document available for inspection by the Commission upon request.
- e) Documents filed electronically by a Commissioner or an Arbitrator under his or her identifier shall be deemed entered by that Commissioner or Arbitrator.

Section 9015.50 Service and Proof of Service

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- a) Electronic service is not capable of conferring jurisdiction. Documents requiring personal service to confer jurisdiction may not be served electronically.
- b) All other documents may be served upon the other party or the party's representative electronically. The subscriber shall be responsible for completing electronic service of the documents. By registering in the electronic filing system, the subscribers consent to receipt of all other documents e-filed and e-served upon them.
- c) Subscribers consent to receive all communication from the Commission, including but not limited to notice of hearing, orders, decisions, or any general correspondence via electronic filing. The Commission may also issue any Commission document via e-mail.
- d) E-service shall be deemed complete as of the filed date and time listed by the e-file system. For the purpose of computing time for any party to respond, any document served is deemed to be served the next business day following the date of transmission.
- e) The e-filing vendor is required to maintain an e-service list for each e-filed case.

Section 9015.60 Document Privacy and Errors in Electronic Filings

- a) It is the responsibility of the filing party to insure that the documents filed electronically do not disclose private or confidential information.
- b) The Commission shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.
- c) If the electronic filing is not filed with the Commission for any of the causes listed in this subsection (c), the Commission may, upon satisfactory proof, enter an order permitting the document to be subsequently filed effective the date the filing was first attempted. The causes the Commission may consider in making this decision are:
 - 1) an error in the transmission of the document to the vendor that was unknown to the sending party;
 - 2) a failure to process the electronic filing when received by the vendor;

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED RULES

- 3) a rejection by the Commission;
 - 4) other technical problems experienced by the filer;
 - 5) the party was erroneously excluded from the service list.
- d) In case of a filing error, absent extraordinary circumstances, anyone prejudiced by the Commission's order to accept a subsequent filing effective as of the date filing was first attempted shall be entitled to an order extending the date for any response, or the period within which any right, duty or other act must be performed.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pre-Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 9020
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9020.10	Amendment
9020.20	Amendment
9020.30	Amendment
9020.40	Amendment
9020.50	Amendment
9020.60	Amendment
9020.70	Amendment
9020.80	Amendment
9020.90	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 16 and 19 of the Worker's Compensation Act [820 ILCS 305/16 and 19]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendments are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database. Section 9020.10 is being amended to include that all ex-parte communication will be disregarded. Section 9020.20 is being amended to include language to ensure proper completion of an Application for Adjustment of Claim. Section 9020.30 is being amended to require an appearance filed by a Petitioner's attorney be accompanied by an Attorney Representation Agreement and allows for a party to file a Motion for Substitution of Counsel supported by a properly executed Attorney Representation Agreement. Additionally, language is being included to indicate that no party or insurance carrier may file an appearance on behalf of an attorney or law firm. Section 9020.40 is being amended to allow the Commission the ability to refer individuals to the Attorney Registration & Disciplinary Commission for unauthorized practice of law. Section 9020.50 is being amended to allow the Commission discretion to set a venue for a claim based on balancing an arbitrator's case load. Section 9020.60 is being amended to allow the Chairman greater flexibility in scheduling the monthly status call. Further, the monthly status calls are to be conducted by the Arbitrator, not an individual designated by the Chairman. Section 9020.70 is being amended to indicate that a Notice of Motion and Order not accompanied by the Motion shall be stricken. Section 9020.70 is being amended to eliminate the arbitrator's ability to enlarge or reduce the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

time of notice prescribed in Section 9020.70(b)(1)(A). Section 9020.80 is being amended to replace references to TTD and medical benefits and now references the statutory basis for these benefits, Section 8(a) and 8(b). Section 9020.90 is being amended to allow the respondent to file a response to a Petition to Reinstate. Language is being added indicating that a record shall be made of a hearing on any contested Petition to Reinstate. Language is being added indicating that nothing will abridge the rights as found in the applicable Statute of Limitations in both the Illinois Workers' Compensation Act and the Illinois Occupational Diseases Act.

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9020

PRE-ARBITRATION

Section	
9020.10	Docketing and Numbering of Cases
9020.20	Application for Adjustment of Claim
9020.30	Memorandum of Names and Addresses for Service of Notice and Attorneys' Appearance
9020.40	Who May Appear – Unauthorized Practice
9020.50	Hearing: Place; Notice: Change of Venue
9020.60	Continuances on Arbitration, Notices, Monthly Status Call, Voluntary Dismissal
9020.70	Motion Practice, General
9020.80	Petitions for Immediate Hearing
9020.90	Petitions to Reinstate
9020.100	Medical Examinations

AUTHORITY: Implementing and authorized by Sections 16 and 19 of the Workers' Compensation Act [820 ILCS 305/16 and 19].

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 49, p. 244, effective December 7, 1978; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 4 Ill. Reg. 26, p. 59, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 41, p. 171, effective September 25, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 5530, effective May 12, 1981; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 1, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2345; emergency amendment 8 Ill. Reg. 5986, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 16238, effective October 15, 1985; emergency amendment at 9 Ill. Reg. 19129, effective November 20, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8096, effective May 5, 1986; amended at 15 Ill. Reg. 8221, effective May 17, 1991; amended at 17 Ill. Reg. 2206, effective February 16, 1993; amended at 20 Ill. Reg. 3842, effective February 15, 1996; recodified from 50 Ill. Adm. Code 7020 to 50 Ill. Adm. Code 9020 at 39 Ill. Reg. 9603; amended at 40 Ill. Reg. _____, effective _____.

Section 9020.10 Docketing and Numbering of Cases

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- a) All cases brought before the Illinois Workers' Compensation Commission (Commission) shall be docketed, time-stamped and given a letter, ~~and~~ number ~~corresponding to either the Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310] under which benefits are claimed~~ and the year of filing. All subsequent pleadings or correspondence should refer to this letter and number.
- b) All documents filed with the ~~Workers' Compensation~~ Commission, including, but not limited to, Applications for Adjustment of Claim, Attorneys' Appearances, Motions and Petitions for Review, shall be served on all parties and shall have a certificate of service setting forth the time and manner of ~~that such~~ service. A copy of all ~~written communication or correspondence~~ addressed to the Commission with respect to a pending matter shall be sent to all parties at the time it is sent to the Commission; all such correspondence shall list the parties to whom copies have been sent. Any documents or written communication not submitted in compliance with this subsection constitutes an ex parte communication and therefore will be disregarded.
- c) Upon presentation of paper documents at the Commission Office, the~~The Workers' Compensation~~ Commission shall file and time stamp all documents presented for filing Monday through Friday, 8:30 a.m. to 5:00 p.m., except legal holidays. Electronically filed documents shall be filed in accordance with 50 Ill. Adm. Code 9015.30.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.20 Application for Adjustment of Claim

- a) Applications for Adjustment of Claim with a certificate setting forth the date of service shall be filed in triplicate on an appropriate form provided by the Commission. The filing party shall serve one copy of the Application ~~that which~~ has been filed on all opposing parties.
- b) An ~~Application~~application for Adjustment of Claim must be limited to one accident or claim. After an Application has been filed with the Commission, any other Applications for Adjustment of Claim covering that accident, but naming a different employer, shall be assigned the same docket number as the original Application. ~~Nothing herein shall bar the filing of an Amended Application for Adjustment of Claim.~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- c) Applications for Adjustment of Claim ~~shall~~should be completed in full and must provide an accident or manifestation of injury date, a description of how the accident occurred, the part of the body injured, the geographical location of the accident for purposes of establishing venue, and a description of how notice of the accident was given or acquired by the ~~employer~~Respondent.
- d) Once an Application for Adjustment of Claim is filed, the ~~Workers' Compensation~~ Commission shall send the information on the Application, on a Notice of Hearing, to the opposing party at the address supplied by the filing party. If the Notice is returned to the ~~Workers' Compensation~~ Commission because the filing party has supplied the wrong address for the opposing party, the ~~Workers' Compensation~~ Commission shall so inform the filing party. The filing party has the obligation of providing the ~~Workers' Compensation~~ Commission with the proper address so Notice can be sent to the opposing party.
- e) Applications for Adjustment of Claim may be amended prior to a hearing on the merits by filing an Amended Application for Adjustment of Claim under the letter and number given the original Application for Adjustment of Claim. The Amended Application for Adjustment of Claim must be clearly labeled "Amended" with all changes clearly marked on all copies and must have attached to it all prior versions of the Application for Adjustment of Claim. Also attached must be proof that the filing party has served a copy of the Amended Application for Adjustment of Claim on the opposing party in the manner set forth in Section 9020.70. It shall be within the discretion of the Commission whether to allow any amendments to the Application for Adjustment of Claim after the commencement of a hearing on the merits.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.30 Memorandum of Names and Addresses for Service of Notice and Attorneys' Appearance

- a) Each party, upon instituting or responding to any proceedings before the Commission, shall file and timely update with the Commission, his/her address, or the names and addresses of any agent upon whom notices shall be served, either personally or by regular mail, addressed to ~~the~~such party or agent at the last address ~~so~~ filed with the Commission.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- b) An Appearance, on forms provided by the Commission, shall be filed by any attorney or law firm representing any party in any proceedings before the Commission. Appearances filed by the Petitioner's attorney shall be accompanied by an Attorney Representation Agreement, on a form prescribed by the Commission, completely filled out and signed by the Petitioner and the attorney. ~~No party or insurance carrier may file an Appearance on behalf of an attorney or law firm.~~ No attorney or law firm will be recognized in any case before the Commission unless the attorney or the attorney's firm has he or they have duly entered at their written Appearance. A subsequent attorney wishing to appear on an existing claim may file a Motion for Substitution of Counsel or a Motion to Seek Leave to File an Appearance, supported by a properly executed Attorney Representation Agreement and with proper notice to all parties and attorneys of record. When an Appearance has been duly filed by a law firm, any attorney member of that firm may appear and be recognized by the Commission. No party or insurance carrier may file an Appearance on behalf of an attorney or law firm. ~~Appearances filed by Petitioner's attorney shall be accompanied by an "Attorney Representation Agreement," on a form prescribed by the Commission, completely filled out and signed by Petitioner and attorney.~~
- c) Once an Appearance has been filed, Leave to Withdraw can only be had upon written order of the Commission or a duly designated Arbitrator of the Commission ~~thereof~~ following appropriate notice to the client and the opposing side. Substitution of Counsel may be had by filing with the Commission and serving on the opposing party a notification of the substitution, signed by the attorney of record, the substituted attorney and the client.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.40 Who May Appear-Unauthorized Practice

- a) Only attorneys licensed to practice in the State of Illinois may appear on behalf of parties to litigation before the ~~Workers' Compensation~~ Commission. This specifically includes presentation of Settlement Contracts and Lump Sum Petitions. Attorneys licensed to practice in states other than Illinois may appear with leave of the Commission.
- b) For routine matters, such as agreed continuances or other agreed ministerial acts, persons other than licensed attorneys shall be permitted to appear on behalf of a party at the status call.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- c) Violations of this Section may be referred to the Attorney Registration & Disciplinary Commission in accordance with the Supreme Court rules.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.50 Hearing: Place; Notice: Change of Venue

- a) Except to the extent modified by Section 9020.80 in reference to proceedings under Section 19(b-1) of the Workers' Compensation Act [820 ILCS 305/19(b-1)] (Act), the ~~following~~ provisions of subsection (b) ~~shall~~ apply:
- b) Upon receipt of an Application for Adjustment of Claim, the Commission shall fix ~~a place for hearing and~~ a date and place for initial status before an Arbitrator of the Commission in accordance with the applicable Act. The place designated shall be a hearing site located in or nearest geographically to the vicinity in which the alleged accident or exposure occurred, subject to the Commissions discretion to balance Arbitrator case loads. ~~When~~Where the accident ~~occurs~~ occurred outside the ~~State~~ of Illinois and the applicant resides in Illinois, the case shall be set at the hearing site geographically nearest to where the applicant resides. ~~When~~Where the accident occurs outside of Illinois and the applicant resides outside of Illinois, ~~then~~ the case shall be set at a hearing site most convenient to the parties.
- c) Designation of a hearing site other than as provided in this subsection~~above~~ may be had upon showing to the Commission of extreme hardship worked upon a party or parties by the designated site, or by agreement of the parties. Absent agreement, any party seeking a change of venue may present a Motion for Change of Venue, setting forth the basis for the change.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.60 Continuances on Arbitration, Notices, Monthly Status Calls, Voluntary Dismissal

- a) Continuances on Arbitration; Notices
Written notices will be sent to the parties for the initial status call setting on Arbitration~~arbitration~~ only. Thereafter, cases will be continued for 3 month intervals, or at other intervals upon notice by the Commission, until the case has

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

been on file at the ~~Workers' Compensation~~ Commission for 3 years, has been set for trial pursuant to 50 Ill. Adm. Code 9030.20, or otherwise disposed of. The parties must obtain any continued status call dates from ~~the Workers' Compensation~~ Commission records.

- b) Monthly Status Calls
- 1) Each Arbitrator, subject to his or her availability, shall hold a monthly status call of cases ~~that which~~ appear on the Arbitrator's docket that month.
 - A) In Cook County, each Arbitrator's monthly status call shall be held at 2:00 p.m. ~~or at a time, on a~~ date and place designated by the ~~Chairman~~ Commission.
 - B) In areas outside of Cook County, each Arbitrator's monthly status call shall be held at 9:00 a.m. ~~or at a time, on a~~ date and place designated by the ~~Chairman~~ Commission.
 - 2) The monthly status call shall be conducted by ~~an~~the Arbitrator as follows:
 - A) Cases shall be called in the order that they appear on the monthly status call.
 - B) Cases will be continued in accordance with subsection (a) ~~above~~ unless a request for a trial date is made in accordance with 50 Ill. Adm. Code 9030.20. A request for a trial date may be made in a case ~~that which~~ does not appear on the monthly status call if:
 - i) a Petition under Section 19(b) of the Act has been filed in accordance with Section 9020.80(a);
 - ii) death benefits under Section 7 of the Act or permanent total disability benefits under Section 8 of the Act are claimed;
or
 - iii) special circumstances exist ~~that, which~~ in the opinion of the Arbitrator, would warrant advancing the case for trial. The moving party must set forth in his ~~or her~~ motion the basis of the claimed special circumstance.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- C) Motions for trial dates under ~~subsections~~ subsections (b)(2)(B)(~~i~~), ~~(ii) and (iii) above~~ shall be presented at the conclusion of the status call.
- DE) Cases on ~~File~~ file 3 or ~~More Years~~ more years.
- i) In all cases ~~that~~ which have been on file at the ~~Workers'~~ Workers' ~~Compensation~~ Compensation Commission for ~~3~~ three years or more, the parties or their attorneys must be present at each status call on which the case appears. The case will be set for trial ~~or~~ dismissed unless a written request has been made to continue the case for good cause. ~~The~~ Such request shall be made part of the case file. The written request must be received by the Arbitrator at least ~~15~~ fifteen days in advance of the status call date and contain proof of service showing that the request for a continuance was served on all other parties to the case and/or their attorneys. Any objection to a continuance in ~~the~~ such case must be received by the Arbitrator at least ~~7~~ seven days prior to the status call date and contain a similar proof of service. The Arbitrator shall rule on ~~the~~ such requests for continuances or objections to the requests thereto at the status call. ~~The parties must appear at the status call even if there is no objection to the continuance.~~
- ii) Failure of the Petitioner or the Petitioner's attorney to request or answer a request for a continuance in accordance with subsection (b)(2)(~~DE~~)(i) ~~above~~ and to appear at the monthly status call on which the case appears shall result in the case being dismissed for want of prosecution, ~~except~~ upon a showing of good cause.
- iii) ~~When~~ Where the Arbitrator has set the matter for trial, the case shall proceed on the date set by the Arbitrator.
- ED) Section 19(b-1) Pretrials, Motions, Pro Se Settlement Contracts ~~pretrials, motions, pro se settlement contracts~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- i) In Cook County, each Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act beginning at 8:45 a.m. on the monthly status call date. The Arbitrator shall hear other motions at the conclusion of the monthly status call. Pro se settlements may be presented on the morning of any monthly status call or on days designated by the Arbitrator.
 - ii) In all areas outside of Cook County, the Arbitrator will hear motions and conduct pre-trial hearings on Petitions filed under Section 19(b-1) of the Act, and hear other motions, at the conclusion of the monthly status call. Pro se settlement contracts may be presented at the conclusion of any monthly status call or on days designated by the Arbitrator.
- c) Voluntary Dismissals
- 1) Any party may voluntarily dismiss his or her claim or any ~~Petition~~petition or motion filed on his or her behalf upon motion signed by the party, if unrepresented, or his or her attorney of record.
 - 2) A party may file a motion to dismiss his or her claim or any ~~Petition~~petition or motion filed on his or her behalf without the signature of his ~~or her~~ attorney of record. The moving party must serve ~~the said~~ motion on his or her attorney and the opposing party, in the manner set forth in Section 9020.20(a), and set the motion for hearing as set forth in Section 9020.70. In ~~these such~~ cases, there shall be no disposition of the claim on its merits prior to the disposition of ~~the said~~ motion.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.70 Motion Practice, General

- a) Form of Motions
All motions, except motions made during an Arbitration or Review hearing, motions for a continuance of cases in the regular review call, and petitions filed under Section 19(h) and/or Section 8(a) ~~of the Act~~, must be accompanied by a ~~Workers' Compensation~~ Commission form entitled "Notice of Motion and Order" and must be served on the Arbitrator or Commissioner and all other parties in

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

accordance with subsection (b). All such motions must set forth the date on which the moving party will appear before the Arbitrator or Commissioner ~~to~~ and present the motion and must include the type of motion and nature of the relief sought. A Notice of Motion and Order not accompanied by the motion may be stricken.

- 1) Motions on Arbitration
 - A) Motions requesting a trial date will be heard during the status call in accordance with Section 9020.60(b)(2).
 - B) All other motions will be heard in accordance with Section 9020.60(b)(2)(~~ED~~). Each arbitrator will hear all motions, other than motions requesting a date certain for trial, on any case assigned to the Arbitrator, even if it does not appear on the status call.
 - 2) Commissioners' Review Calls

Each Commissioner will hear motions at the hearing location on the days designated by the Commission.
- b) Notice; Service of Papers; Proof of Service; and Waiver of Notice.
- 1) Notice and Service of Papers
 - A) For all motions except Petitions for Immediate Hearing and motions requesting a date for trial, notices of motion shall be in writing and shall be served upon the Arbitrator or Commissioner and the attorney of record of all other parties or, ~~when~~ where any other party is not represented by counsel, upon the party himself, by personal or office delivery or by mailing of a copy of the notice with copies of the supporting papers. ~~The~~ Such service, if by personal or office delivery, shall be effected ~~53~~ days preceding the day of the status call set forth in the notice, exclusive of any intervening Saturday, Sunday or legal holiday. If service is had by mail, then the envelope enclosing a copy of the notice and supporting papers shall be deposited in the post office or post office box at least ~~105~~ days before the motion is to be heard, exclusive of any intervening Saturday, Sunday or legal holiday.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- B) Motions for an immediate hearing under Section 19(b) of the Act and motions requesting a date for trial shall be served on the Arbitrator and on all other parties 15 days preceding the status call ~~date~~ set forth in the notice.
- C) Proof of service of notices or other papers shall be affixed:
- i) in any case, by written acceptance of service;
 - ii) in case of service by delivery, by affidavit of the person delivering or leaving the papers; and;
 - iii) in case of service by mail, by affidavit of the person depositing the papers in the mail, ~~which~~ The affidavit shall state the time and place of mailing, the complete address ~~that~~ which appeared on the envelope, and the fact that proper postage was prepaid.
- D) ~~When~~ Where the opposite party has not appeared within the time fixed by rule, or has appeared, but failed to designate a place for service, service may be directed to that party's ~~his~~ last known business or residence address.
- 2) Waiver
Parties may waive the requirements of notice, service and proof of service. ~~Moreover, in the case of any motion, the hearing officer retains the power to enlarge or reduce the time of notice prescribed in subsection (b)(1)(A).~~
- c) Who Shall Hear Motions
- 1) When a cause is pending on the ~~Arbitration~~ arbitration call, all motions and settlement contracts, except ~~when~~ where expressly otherwise provided in the Rules of the Commission (50 Ill. Adm. Code Ch. VI), shall be heard by the Arbitrator to whom the case has been assigned. If ~~that~~ said Arbitrator is unavailable, the Commission may assign the motion or settlement contract to another Arbitrator for disposition.
 - 2) When a cause is pending on Review ~~review~~, but not yet assigned to a

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

specific Commissioner, all motions shall be assigned to a sitting Commissioner. Once the cause has been assigned to a particular Commissioner for hearing, that Commissioner shall hear all motions relative to the case.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.80 Petitions for Immediate Hearing

- a) Petition for Immediate Hearing Under Section 19(b)
- 1) In a Petition alleging that ~~A) the Petitioner~~ he is unable to work because of a disability compensable under Workers' Compensation Act or Workers' Occupational Diseases Act, and B) he is not receiving benefits under Section 8(a) and/or 8(b) of the Act temporary total disability or medical benefits to which he or she is entitled, the Petitioner may file a Petition for Immediate Hearing, as provided for in Section 19(b) of the ~~Workers' Compensation Act~~, on an appropriate form provided by the Commission. ~~The said~~ Petition shall set forth:
- Ai) a description of the attempts by parties or counsel to resolve the dispute requiring an immediate hearing, including the name of the representative of the opposing party with whom the Petitioner or his or her attorney has conferred, the date of the conference, and the result of the conference;
- Bi) a statement that a signed physician's report of recent date relating to the employee's current inability to work, or a description of such other evidence of temporary total disability as is appropriate under the circumstances, has been delivered to the Respondent.
- 2c) A response to the said Petition shall be filed on an appropriate form provided by the Commission within 15 days ~~after~~ of service of a Petition for Immediate Hearing. Failure to respond timely or in good faith may result in the assessment of the attorneys' fees under Section 16 of the ~~Workers' Compensation Act~~. The Petition for Immediate Hearing shall be filed and heard in accordance with Section 9020.70.
- 3z) The Arbitrator to whom the case is assigned shall attempt to resolve the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

matter informally. If the matter cannot be resolved at that time, and the Arbitrator determines the Petitioner is not receiving benefits as provided in subsection Section 9020.80(a)(1) temporary total disability or medical benefits, ~~thesaid~~ Arbitrator shall order the case to formal hearing ~~on a date certain as soon as possible~~.

- b) Petition for Immediate Hearing under Section 19(b-1).
- 1) Filing Petition for Emergency Hearing under Section 19(b-1)
An employee alleging that: ~~A) he~~ or she is unable to work because of disability compensable under the ~~Workers' Compensation Act or the Workers' Occupational Diseases Act [820 ILCS 310]~~, and ~~B) he is not~~ receiving temporary total disability and/or medical, surgical, or hospital benefits to which he or she is entitled under Section 8(a) or 8(b) of the ~~Workers' Compensation Act~~, may file a Petition for Immediate Hearing before an Arbitrator as provided for in Section 19(b-1) of the ~~Workers' Compensation Act~~; The Petition shall be filed on an appropriate form provided by the Commission ~~and~~; ~~Such Petition~~ must comply with all requirements of the ~~Workers' Compensation Act~~.
 - 2) Section 19(b-1) Proceedings before Arbitrators: Pre-trial Conferences
 - A) The Arbitrator will hold a pre-trial conference within 20 days after the Petition for Emergency Hearing is filed. If the venue is outside of Cook County, the pre-trial conference will be held at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as close as practical to the original hearing site. Notice of pre-trial conference will be sent by the Commission to all parties of record.
 - B) Any challenges to the sufficiency of the Section 19(b-1) Petition will be heard at the pre-trial conference.
 - C) If the Section 19(b-1) Petition is found by the Arbitrator to be insufficient, the Arbitrator will allow the Petitioner 5 business days to cure all insufficiencies, and all time limits under the statute are tolled until the Arbitrator has determined that the amended Petition is sufficient. During ~~this~~ the aforementioned time period, the amended Section 19(b-1) Petition, with proof of service to

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

opposing party, shall be filed with the Commission. If the insufficiencies are not cured within the time limit, the Section 19(b-1) Petition will be dismissed without prejudice by the Arbitrator and notices of the dismissal will be sent by the ~~Workers' Compensation~~ Commission to all parties of record.

- D) If, within the time period provided in subsection (b)(2)(C), above the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the Respondent shall have 15 days from receipt of the amended Section 19(b-1) Petition to respond thereto.
- 3) Section 19(b-1) Hearing, Decisions, and Transcripts
- A) Hearings
- i) If, at the pre-trial conference, the Arbitrator finds the Section 19(b-1) Petition to be sufficient, he or she will set the case to be tried within 15 days at either the regularly scheduled hearing site or at another hearing site for the same Arbitrator available within that time period and located as closely as practical to original hearing site.
- ii) If the Section 19(b-1) Petition is insufficient, the Arbitrator will set the case to be tried within 35 days ~~after~~ the pre-trial conference at either the regularly scheduled hearing site for the same Arbitrator or at another hearing site for the same Arbitrator available within the time period and located as closely as practical to the original hearing site. If, within the time period provided in subsection (b)(2)~~(A)(iii)~~ above, the insufficiencies are cured and the parties have not received from the Commission notices of dismissal of the Section 19(b-1) Petition, the trial will be held as scheduled.
- iii) Proofs are to be closed within 45 days after a Section 19(b-1) Petition, or an amended Petition curing any insufficiencies as provided in subsection (b)(3)(A)(ii) above is filed, unless for good cause the Arbitrator extends the time for closing proofs for an additional period ~~or of~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

periods not to exceed a total extension period of 30 days. Good cause is defined as, but not limited to, additional medical records needed and taking of depositional evidence.

B) Arbitrator Decision

The Arbitrator's decision is to be filed with the Commission within 25 days after proofs are closed. The Arbitrator's decision shall contain the final cost of the arbitration transcript, or the estimated cost of the transcript if the final cost is not available at the time the Arbitrator's decision is issued.

C) Transcripts

- i) At the beginning of each hearing at which a record is made, the Arbitrator will state the following rule for the record:

Upon the closing of proofs, at the request of any party, the Arbitrator ~~will~~shall order the Court Reporter to prepare an original transcript of this hearing, to be authenticated by the Arbitrator for use by the Commission in the event it is required for further proceedings, including any proceedings for a review of the Arbitrator's decision. The parties may order copies of the transcript of today's hearing at the close of the hearing, to be charged at the rate provided in Section 16 of the Workers' Compensation Act for copies of transcript. Each party shall pay the cost of its copy. If a Petition for Review is filed, the appealing party shall pay the cost of the original transcript. If no Petition for Review is filed, the parties shall pay the cost of the original transcript, ~~such cost~~ to be divided equally among the parties. At the close of each day's hearing on Arbitration, the Court Reporter shall provide an estimate of the cost of preparing the transcript. The estimated cost of the transcript may not be the final cost of the transcript for which a party is liable. If the party orders the transcript at a later time, it is unlikely it will be received in sufficient time for use in preparation of the party's Statement ~~statement~~ of Exception(s) ~~exception(s)~~ and Supporting Briefs ~~supporting~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~brief~~, or a response thereto, in the event either party files a ~~Petition~~petition for ~~Review~~review of the Arbitrator's decision. If the original is not on file, in the event a transcript is ordered, it will be prepared as an original and the party will be charged at a rate provided for in Section 16 of the Workers' Compensation Act. The Commission will not consider the unavailability of the transcript good cause for the failure to file a timely ~~Statement~~statement of ~~Exception(s)~~exception(s) and ~~Supporting Briefs~~supporting brief, or a response thereto.

- ii) ~~When~~Where the transcript of proceedings has been ordered pursuant to subsection (b)(3)(C)(i)~~above~~, the transcript has been authenticated by the Arbitrator, and a copy of the statement of the final cost of the preparation of the transcript shall be filed by the Court Reporter at the Commission within 25 days after proofs are closed. ~~When~~Where the transcript of the proceedings is ordered at the time a Petition for Review is filed, the transcript has been received, the transcript shall be authenticated and filed pursuant to subsection (b)(4)(A)(iii).

4) Section 19(b-1) Proceedings before the Commission

A) Perfecting a Review

A Petition for Review must be filed in duplicate at the Commission within the time provided by Section 19 of the Workers' Compensation Act. The Petition must contain or be accompanied by the following:

- i) A Certificate of Service on the opposing party by personal service or certified mail;
- ii) A certification that payment for the transcript in the amount set forth in the Arbitrator's Decision has been made to the Court Reporter. The Petition shall be accompanied by a copy of the check or money order sent to the Court Reporter. ~~When~~Where the amount paid is an estimate, the balance of the cost, if any, shall be paid upon receipt of the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

statement from the Court Reporter setting forth the final cost of the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act ~~[820 ILCS 305/20]~~ may be submitted for payment of the transcript;

- iii) An order for the transcript of proceedings at Arbitration, ~~when the where said~~ transcript was not ordered at Arbitration. The transcript of proceedings authenticated by the Arbitrator shall be filed by the Court Reporter at the Commission within 25 days ~~after of~~ the filing of the Petition for Review.
- iv) A statement of Appellant's specific ~~exception/exception~~ ~~exception(s)~~ to the Arbitrator's Decision; attachment of the ~~Statement~~ ~~statement~~ of ~~Exception(s)~~ ~~exception(s)~~ and ~~Supporting Briefs~~ ~~supporting brief~~ required by subsection (b)(4)(B) ~~below~~ will satisfy this requirement.

B) Statement of Exception(s) and Supporting Brief

- i) Any party filing a Petition for Review with the Commission shall file a ~~Statement~~ ~~statement~~ of ~~Exception(s)~~ ~~exception(s)~~ and ~~Supporting Briefs~~ ~~supporting brief~~ with attached proof of service within 15 days ~~after of~~ the filing of the Petition for Review. The Appellee may elect to file a response ~~to the Petition~~ ~~thereto~~, in which case the response must be filed and served on the opposing party within 15 days ~~after from~~ the last day allowed for the filing of the Appellant's ~~Statement~~ ~~statement~~ of ~~Exception(s)~~ ~~exception(s)~~ and ~~Supporting Briefs~~ ~~supporting brief~~. Each party filing a ~~Statement~~ ~~statement~~ of ~~Exception(s)~~ ~~exception(s)~~ ~~and/or additions~~ and ~~Supporting Briefs~~ ~~supporting brief~~, or response thereto shall file ~~three (3)~~ copies. ~~The Statement~~ ~~Such statement~~ of ~~Exception(s)~~ ~~exception(s)~~ ~~and/or additions~~ and ~~Supporting Briefs~~ ~~supporting brief~~, or response thereto, shall be written or printed on one side of no more than ~~twenty (20)~~ 8½" x 11" sheets of paper, or contain no more than 5,200 words.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

whichever is greater, and shall follow the format set forth in 50 Ill. Adm. Code 9040.70(a). Failure of any appellant or petitioning party to file timely a Statement ~~statement~~ of Exception(s) ~~exception(s)~~ and Supporting Brief ~~supporting brief~~ may result in denial of oral argument.

- ii) Timely filing shall be shown by: the date file stamped on the document at the time of receipt by the Commission at its office in Chicago, Illinois; a legible postmark date at least ~~two (2)~~ calendar days prior to and exclusive of the date on which ~~the such~~ document was due to be filed in accordance with this Section ~~rule~~, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its office in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing ~~that which~~ is not less than ~~two (2)~~ calendar days prior to and exclusive of the date on which document was due to be filed. If the date required for filing or mailing falls on a Saturday, Sunday, or holiday, the time for filing or mailing shall be the next date ~~that which~~ is not a Saturday, Sunday or holiday. Electronically filed documents shall be filed in accordance with 50 Ill. Adm. Code 9015.30.

- C) **Hearing on Review and Oral Arguments**
No hearing on Review will be held by the Commission. Immediately after the Petition for Review has been filed, it will be assigned to a Commissioner who will promptly schedule the case for oral argument before a panel of ~~3~~ three Commissioners, as provided in Section 19(e) of the Act.
- D) The Commission shall file its decision no more than 90 days after the filing of the Petition for Review, and not later than 180 days ~~after from~~ the filing of the Petition under Section 19(b-1) of the Act, whichever is sooner.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 5) Service in Section 19(b-1) Proceedings
All service required pursuant to this ~~Section~~rule must be by personal service or certified mail with return receipt. After initial service to the employer, service shall be made on the employer's attorney or designated representative.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9020.90 Petitions to Reinstate

- a) ~~When~~Where a cause has been dismissed from the ~~Arbitration~~arbitration call for want of prosecution, the parties shall have 60 days from receipt of the dismissal order to file a Petition to Reinstate ~~petition for reinstatement of~~ the cause onto the ~~Arbitration~~arbitration call. Notices of dismissal shall be sent to the parties.
- b) Petitions to Reinstate must be in writing. The ~~Petition~~petition shall set forth the reason the cause was dismissed and the grounds relied upon for reinstatement. The ~~Petition~~petition must also set forth the date on which the Petitioner will appear before the Arbitrator to present ~~the~~his ~~Petition~~petition. A copy of the ~~Petition~~petition must be served on the other side at the time of filing with the Commission in accordance with the requirements of Section 9020.70. The Respondent may file a response to the Petition.
- c) Petitions to Reinstate shall be docketed, ~~and assigned to~~ and heard by the same Arbitrator to whom the ~~case is~~cause was originally assigned. Both parties must appear at the time and place set for hearing. Parties will be permitted to present evidence in support of, or in opposition to, the ~~Petition~~petition. The Arbitrator shall apply standards of fairness and equity in ruling on the Petition to Reinstate and shall consider the grounds relied on by the Petitioner, the objections of the Respondent, and the precedents set forth in Commission decisions. A record shall be made of a hearing on any contested Petition.
- d) A cause shall be reinstated upon stipulation of the parties filed with the Commission, which will docket the stipulation.
- e) Nothing in this Section abridges the rights found in the applicable Statute of Limitations of the Illinois Workers' Compensation Act (Section 6(d) of the Act) or Section 6(c) of the Illinois Occupational Diseases Act.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Arbitration
- 2) Code Citation: 50 Ill. Adm. Code 9030
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
9030.10	Amendment
9030.20	Amendment
9030.40	Amendment
9030.50	Amendment
9030.60	Amendment
9030.70	Amendment
9030.80	Amendment
9030.100	Amendment
- 4) Statutory Authority: Implementing and authorized by the Worker's Compensation Act [820 ILCS 305] and the Workers' Occupational Diseases Act [820 ILCS 310]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. Section 9030.10 is being amended to allow the Commission to assign cases on a random basis. Further, when multiple claims have been filed, the subsequent claims are to be assigned to the Arbitrator of the claim first filed. The proposed amendment allows for an exception of such an assignment based upon a showing of good cause. The Section proposes that Motions to Consolidate are to be heard by the arbitrator assigned to the earliest filed claim. Additionally, this Section proposes to include language that the arbitrator retains the case when it has been dismissed or otherwise closed and subsequently re-filed. Section 9030.20 is being amended to give any party the opportunity to set a case for trial at the monthly status call. At trial, the time for the parties to appear is being extended to 9:30 a.m. from 9:15 a.m. The changes also provide for the arbitrator to establish the order in which cases shall proceed to hearing. The proposed amendment also eliminates the mandatory requirement that cases must conclude within 3 months after the first hearing. Now it is advisory, not mandatory. Section 9030.50 is being amended so that service only of a subpoena is required, not personal service. When the parties are unable to reach an agreement as to the taking of a deposition, Section 9030.60 is being amended to allow the Commission to hold a hearing and issue a Dedimus Potestatem Order. Section 9030.70 is being amended to simply state that the Illinois Rules of Evidence apply to proceedings before the Commission. Section 9030.80 is being amended to state that proposed decisions are not considered admissions

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

and are not part of the record. Further, an arbitrator's written decision should now include a statement of the requirements for perfecting a Review.

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9030

ARBITRATION

Section	
9030.10	Arbitration Assignments
9030.20	Setting a Case for Trial
9030.30	Disqualification of Commissioners and Arbitrators
9030.40	Request for Hearing
9030.50	Subpoena Practice
9030.60	Depositions
9030.70	Rules of Evidence
9030.80	Briefs, Arbitrators' Decisions
9030.90	Opening and/or Closing Statements
9030.100	Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305] and the Workers' Occupational Diseases Act [820 ILCS 310].

SOURCE: Filed and effective March 1, 1977; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency amendment at 5 Ill. Reg. 8547, effective August 3, 1981, for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; emergency amendment at 6 Ill. Reg. 5820, effective May 1, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8040, effective July 7, 1982; amended at 6 Ill. Reg. 11909, effective September 20, 1982; codified at 7 Ill. Reg. 2514; amended at 9 Ill. Reg. 19722, effective December 6, 1985; emergency amendment at 14 Ill. Reg. 4913, effective March 9, 1990, for a maximum of 150 days; emergency expired August 6, 1990; amended at 14 Ill. Reg. 13141, effective August 1, 1990; amended at 15 Ill. Reg. 8214, effective May 17, 1991; amended at 20 Ill. Reg. 4053, effective February 15, 1996; amended at 36 Ill. Reg. 17913, effective December 4, 2012; recodified from 50 Ill. Adm. Code 7030 to 50 Ill. Adm. Code 9030 at 39 Ill. Reg. 9605; amended at 40 Ill. Reg. _____, effective _____.

Section 9030.10 Arbitration Assignments

- a) In cases arising in Cook County, cases shall be assigned at the time of the First Notice of Hearing to Arbitrators on a random basis ~~by a computer program. All~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~cases filed prior to January 1, 1982, which have not been assigned to an Arbitrator for hearing or settlement shall be assigned to Arbitrators using a random assignment system established at the direction of the Commission to facilitate assignment of all such cases to an Arbitrator in an equitable and efficient manner.~~

- b) In cases arising outside Cook County, cases shall be assigned to an Arbitrator, on a random basis, at the time of the First Notice of Hearing, depending on the place of accident. Each Arbitrator outside Cook County shall be given a zone ~~or geographical territory; all claims based on accidents occurring within such zones shall be assigned to that Arbitrator.~~
- c) All assignments on ~~Arbitration~~arbitration are final, except as otherwise provided in Section 14 of the Workers' Compensation Act [820 ILCS 305] (Act), Section 9030.30 of this Part, and 50 Ill. Adm. Code 9070.40, or ~~when~~where consolidation with a previously filed case is required.
- d) In the event a Petitioner has an Application for Adjustment of Claim pending and files one or more Applications for Adjustment of Claim against the same Respondent, or against different Respondents alleging accidental injuries to the same part of the body, subsequent cases shall, on motion of any party, be assigned to the Arbitrator of the case filed first, unless there is a showing of good cause by the objecting party. If a case is dismissed or otherwise closed and the Petitioner files an Application for Adjustment of Claim relating to the same accident, the case will be assigned to the Arbitrator assigned to the first case filed involving that accident.
- e) ~~When~~Where more than one Petitioner files a claim against the same Respondent relating to the same accident, the cases may be consolidated before the Arbitrator assigned to the case filed first before the Arbitrator assigned to the case first if consolidation filed upon motion of any party, if such consolidation would promote consistency and efficiency of administration. Motions to consolidate shall be heard by the Arbitrator that was assigned to the earliest filed claim. ~~All disputes involving reassignment shall be heard by the Chairman or a Commissioner designated by the Chairman.~~
- f) If a case is dismissed or otherwise closed and the Petitioner files an Application for Adjustment of Claim relating to the same accident, the case will be assigned to the Arbitrator assigned to the first case filed involving that accident.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.20 Setting a Case for Trial

- a) A written request for a date certain for trial may be made by any party at the monthly status call on which the case appears. A request for a trial date in a case ~~that~~which does not appear on the monthly status call may only be made in accordance with 50 Ill. Adm. Code 9020.60(b)(2)(B).
- b) If the parties, by agreement, request a trial date, the Arbitrator ~~shall~~will assign a specific date and time for trial. A pre-trial conference may be held by the Arbitrator. Either party may request a pre-trial conference prior to the start of trial.
- e) ~~If there is no agreement:~~
- 1) ~~Any party may file a motion requesting a date certain for trial. The motion must be accompanied by a form provided by the Industrial Commission called a Request for Hearing, which sets forth the moving party's claims on each issue.~~
- 2) ~~A Respondent may file a motion requesting a date certain for trial if Respondent claims that:~~
- A) ~~Respondent has not received in the prior 6 months any bills or other evidence that Petitioner is under medical care or undergoing physical or vocational rehabilitation related to the alleged accidental injuries, and~~
- B) ~~Respondent has evidence establishing that Petitioner has not been entitled for the prior 6 months to temporary total disability benefits as a result of the alleged accidental injuries, and such benefits have not been paid for that period.~~
- c)3) The motions for trial dates shall be filed and heard pursuant to 50 Ill. Adm. Code 9020.70 and 9020.60.
- 1) The Arbitrator shall set the matter for trial on a date certain if:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- A) ~~If~~ the Arbitrator determines that proper and timely ~~fifteen (15)~~ days notice was given of the motion for trial date to the opposing party;
- B) ~~the~~ opposing party was provided with a completed Request for Hearing; ~~said~~
- C) ~~the~~ case appears on the monthly status call on the date the motion is heard, or if the case is not on the status call, the Arbitrator has determined that the case falls within the exceptions in 50 Ill. Adm. Code 9020.60(b)(2)(B); and
- D) ~~the Arbitrator determines~~ that the matter should proceed to trial; ~~the Arbitrator shall set the matter for trial on a date certain.~~
- 2) If any party fails, without good cause, to appear, the Arbitrator will hear the motion for trial date ex parte; and, if the Arbitrator determines the matter is ready for trial, will set a trial date convenient to the Arbitrator and the party that appeared. The party that appeared shall notify the opposing party of the trial date.
- d) On each trial day, each party or, if represented, the party's attorney of record must appear before the Arbitrator between 8:45 a.m. and ~~9:30~~ 9:15 a.m. ~~During this time period, during which time~~ the Arbitrator ~~may~~ shall establish the order in which cases shall proceed that day. The Arbitrator may give priority to cases in which a Petition under Section 19(b) or 19(b-1) of the Act has been filed, death benefits under Section 7 of the Act or permanent total disability benefits under Section 8 of the Act are claimed, or other cases in which special circumstances exist ~~that, which~~ in the opinion of the Arbitrator, warrant granting priority to the case in the trial order. Request for Hearing forms must be completed, signed and submitted to the Arbitrator prior to the beginning of the hearing in the case.
- e) Failure of the Petitioner to appear before ~~9:30~~ 9:15 a.m. may bar the case from being heard that day or may result in dismissal of the claim. Failure of the Respondent to appear may result in an ex parte hearing on the merits of the claim.
- f) On each trial day, the Arbitrator shall begin hearing cases at 9:30 a.m., ~~after~~ ~~establishing the order in which cases will proceed~~. Any party who requests a date certain for trial must be prepared, absent good cause shown, to proceed to trial. On the trial day, parties may report the case settled or request a continuance ~~on a~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~form provided by the Workers' Compensation Commission.~~ If the moving party does not respond when the case is called for trial by the Arbitrator, the case may be placed at the end of the trial order.

- g) Bifurcated hearings ~~are discouraged and~~ will be allowed only for good cause. Examples of good cause include, but are not limited to, ~~situations in which~~~~where~~ the number or location of witnesses ~~makes~~~~make~~ it impossible to conclude the hearing in one day or the testimony of a witness must be taken prior to a deposition. All cases, except those ~~which are~~ heard under Section 19(b-1) of the Act, ~~should~~~~must~~ be concluded within 3 months after the first hearing date or the Arbitrator will close proofs, absent good cause shown, and render a decision.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.40 Request for Hearing

Before a case proceeds to trial on ~~Arbitration~~~~arbitration~~, the parties (or their counsel) shall complete and sign a form provided by the Workers' Compensation Commission called Request for Hearing. However, in the event a party (or ~~his~~ counsel) ~~fails~~~~shall fail~~ or ~~refuses~~~~refuse~~ to complete and sign the document, the Arbitrator, in his ~~or her~~ discretion, may allow the case to be heard and may impose upon ~~that~~~~sueh~~ party whatever sanctions permitted by law the circumstances may warrant. The completed Request for Hearing form, signed by the parties (or ~~their~~ counsel), shall be filed with the Arbitrator as the stipulation of the parties and a settlement of the questions in dispute in the case.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.50 Subpoena Practice

- a) Issuance
A blank form of subpoena for the attendance of witnesses or the production of documents will be furnished by the Secretary of the Commission upon request of the parties or their attorneys.
- b) Use
Unless otherwise agreed by the parties, witnesses or documents may only be subpoenaed to appear or be produced at the time and place set for hearing of the cause.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- c) **Service**
~~Service~~Personal service of the subpoena is required and payment of the statutory~~Statutory~~ fee and travel expense (see Section 16 of the Act and 705 ILCS 35/4.3) must accompany the service.
- d) **Failure to Honor Subpoena**
- 1) Upon failure of any person, firm or organization to obey a subpoena of the ~~Illinois Workers' Compensation~~ Commission, a party seeking enforcement of the subpoena (or counsel), ~~or his attorney~~, shall prepare an ~~Application~~application to the Circuit Court of the county in which the hearing or claim is pending requesting enforcement of the subpoena pursuant to Section 16 of the ~~Illinois Workers' Compensation Act~~. The party seeking enforcement and shall present, file and serve on the opposing party the Application, ~~said application~~ together with the original subpoena and proof of service to the Arbitrator or Commissioner designated to hear the ~~said~~ claim. ~~If, or if~~ no Arbitrator or Commissioner ~~Commission~~ has been designated, the Application shall be presented then to the Chairman of the Commission.
 - 2) A hearing ~~under pursuant to~~ 50 Ill. Adm. Code 9020.70 (motion practice) shall be held at which the Commissioner or Arbitrator to whom the ~~Application~~application is presented shall determine if the subpoena requested relevant information, and was properly issued and served, and if the ~~Application~~application is proper in form. If the ~~said~~ Commissioner or Arbitrator ~~shall so finds find, then,~~ he or she shall sign the ~~Application~~application. The party seeking enforcement of the subpoena (or counsel), ~~or his attorney~~, may then file and prosecute the application in the Circuit Court.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.60 Depositions

- a) Evidence depositions of any witness may be taken, before a hearing, by stipulation of the parties, only upon stipulation of the parties or upon order, called a dedimus potestatem in Section 16 of the Act, issued by the Arbitrator or Commissioner to whom the case has been assigned upon application of either party. If there is no agreement as to the deposition, the Arbitrator or

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Commissioner shall hold a hearing and may issue an order, called a dedimus potestatem, pursuant to Section 16 of the Act. In ruling on an Application for Dedimus Potestatem, the Arbitrator or Commissioner shall give consideration to the judgement of the applicant. Evidence depositions of any witness may be taken after the hearing begins only by stipulation of the parties or upon Order~~order~~ of the Arbitrator or Commissioner, for good cause shown. Except as provided in subsection (f)~~below~~, an Application for Dedimus Potestatem~~such application~~ shall be in writing and shall contain the following:

- 1) The reasons for the issuance of the dedimus potestatem, clearly and concisely stated.
 - 2) The date upon which the dedimus should be issued and the name and address of the party to whom the dedimus is to be directed.
 - 3) The names and addresses of the witnesses whose depositions are sought to be taken.
 - 4) A statement as to whether the depositions are to be taken by oral or written interrogatories. The~~Such~~ written application shall be made either upon a printed form prescribed and furnished by the Commission or in a similar document prepared by the party applying for the dedimus.
- b) The time for taking depositions pursuant to the issuance of the dedimus potestatem shall be on a date set not less than ~~ten (10)~~ days after the issuance of the~~such~~ dedimus potestatem.
- c) Notice and Objection
- 1) Except as provided in subsection (f)~~below~~, no dedimus potestatem shall be issued unless a copy of the Application~~application~~, together with all documents required by this Section~~rule~~ to be attached to the~~Application~~~~said application~~, has been served on the opposing party and proof of service of the~~such~~ copy has been made as provided in 50 Ill. Adm. Code 9020.709020, ~~Pre Arbitration~~.
 - 2) The opposing party may, within ~~five (5)~~ days after the receipt of the copy of the Application~~application~~, file written objections to the issuance of the dedimus potestatem. The Arbitrator or Commissioner~~Commission~~ shall

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

rule on ~~thesuch~~ objections before the issuance of the dedimus potestatem.

- d) Except as provided in subsection (f) ~~below~~, notice of the issuance of the dedimus potestatem shall be given in sufficient time so that the receipt of ~~thesuch~~ copy of the dedimus potestatem shall not be less than ~~ten (10)~~ days before the date set for the taking of the deposition. If the deposition is to be taken by written interrogatories, ~~thesuch~~ interrogatories shall be filed in triplicate with the ~~Application for Dedimus Potestatem~~ ~~application for dedimus potestatem~~ and a copy of ~~thesuch~~ interrogatories shall be attached to the copy of the dedimus potestatem mailed to each party. If cross-interrogatories are desired, ~~those cross-interrogatories~~ ~~the same~~ shall be filed with the Commission, not more than ~~five (5)~~ days after the receipt of the written interrogatories, and the party filing ~~themsame~~ shall mail a copy, ~~thereof~~ within the same period of time, to the applicant for dedimus potestatem.
- e) No dedimus potestatem shall be issued to take the depositions of any medical witnesses:
- 1A) ~~when~~ ~~where~~ the party applying for the dedimus potestatem has refused or failed to comply with the provisions of Section 12 of the Act; and
- 2B) unless ~~the applying party~~ ~~he shall have~~ served the other side with a signed report of ~~thesuch~~ medical witness ~~(-other than a treating physician)~~ giving his ~~or her~~ findings and conclusions.
- f) Exceptions
- 1) ~~However, when~~ ~~Provided, however, where~~ it is shown that, by complying with the time requirements prescribed ~~in this Section~~ ~~herein~~, the party seeking the dedimus may be deprived of the evidence sought to be obtained by the deposition, ~~that~~ the Arbitrator or Commissioner to whom a case has been assigned for hearing may, in his ~~or her~~ discretion:
- A) on notice and hearing before trial, waive or reduce ~~the such~~ requirements; or
- B) permit a party to present an oral ~~Application~~ ~~application~~ of a dedimus potestatem immediately before or during trial and, after due consideration of ~~the Applications~~ ~~such application~~ and any

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

objections ~~to the Application~~ ~~thereto~~ that may be orally raised by the opposite party, rule upon the ~~Application~~ ~~application~~.

- 2) ~~When~~ ~~Where~~ a dedimus potestatem is issued upon ~~such~~ oral application, the hearing officer shall allow the parties reasonable time to complete the deposition and submit the transcript ~~of the deposition~~ ~~thereof~~ before closing proofs in the case.
- g) When any party takes an evidence deposition, ~~that~~ ~~said~~ deposition shall be filed and become part of the record as an exhibit of the party who applied for the dedimus to take the deposition, unless the parties agree otherwise.
- h) All objections to questions propounded or answers adduced in the evidence deposition shall be fully explained on the record of ~~the~~ ~~said~~ deposition. It shall be the duty of the hearing officer to note his ~~or her~~ ruling on each objection in the margin of the transcript of ~~the~~ ~~said~~ deposition or at a hearing on the record.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.70 Rules of Evidence

- a) The Illinois ~~Rules of Evidence~~ ~~common law rules of evidence and the Illinois Evidence Act [820 ILCS 305]~~ shall apply in all proceedings ~~had~~ before the ~~Workers' Compensation~~ Commission, either upon ~~Arbitration~~ ~~arbitration~~ or ~~Review~~ ~~review~~, except to the extent they conflict with the ~~Workers' Compensation Act [820 ILCS 305]~~, the Workers' Occupational Diseases Act [820 ILCS 310], or the Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code Chapter VI).
- b) Exhibits offered in evidence, whether admitted or rejected, shall be retained by the assigned Arbitrator or Commissioner until a decision is issued in the matter. Exhibits may not be removed by the parties. Once a final decision is rendered, exhibits shall be retained by the ~~Workers' Compensation~~ Commission pursuant to the requirements of Section 17 of the ~~Workers' Compensation Act [820 ILCS 305/17]~~.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.80 Briefs, Arbitrators' Decisions

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- a) At the close of proofs, the Arbitrator may require that each party ~~tenderfile~~ a proposed decision or a brief within 14 days. The proposed decision or brief must set forth all issues in dispute and the party's position on each issue. The proposed decision or brief must be served on the Arbitrator and all other parties and ~~shall~~ contain proof of service. The proposed decision shall be written in the same manner and form as that which is required under subsection (b). The proposed decision shall not be considered an admission of a party and shall not be made part of the record.
- b) After the closing of proofs, the Arbitrator will issue a written decision ~~that~~which shall include:
- 1) the Commission number of the case, the names of the parties, and the name of the county in which the case was heard;
 - 2) the issues agreed to and in dispute;
 - 3) the Arbitrator's findings of fact and conclusions of law, separately stated, upon each contested issue, if requested by either party;
 - 4) applicable orders resulting from the findings of fact and conclusions of law;
 - 5) a statement of the requirements for perfecting a review~~filing a decision~~ pursuant to 50 Ill. Adm. Code 9040.10~~(a) and (b)~~;
 - 6) ~~when~~where applicable, a statement of the rate of interest due under Section 19(n) of the ~~Workers' Compensation Act~~ [820 ILCS 305/19(n)].

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9030.100 Voluntary Arbitration under Section 19(p) of the Workers' Compensation Act and Section 19(m) of the Workers' Occupational Diseases Act

- a) Selection of Arbitrators to Hear Cases ~~under~~Under Voluntary Arbitration
- 1) The Workers' Compensation Advisory Board shall compile a list of not ~~fewer~~less than ~~seven~~(7) certified ~~Arbitrators~~arbitrators, each of whom

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

shall be approved by at least ~~seven (7)~~ of the ~~nine (9)~~ members of the Advisory Board, to conduct hearings. The Advisory Board shall submit ~~the such~~ list to the Chairman of the ~~Workers' Compensation~~ Commission (the Chairman).

- 2) Within ~~thirty (30)~~ days of submission of the list by the ~~Workers' Compensation~~ Advisory Board, the Chairman shall select ~~five (5)~~ ~~Arbitrators~~ ~~arbitrators~~ from the list to conduct hearings. The Chairman shall publish the selections within ~~fifteen (15)~~ days.
- 3) If a vacancy occurs among the ~~Arbitrators~~ ~~arbitrators~~ selected by the Chairman to conduct hearings, the Chairman shall select an ~~Arbitrator~~ ~~arbitrator~~ from the list chosen by the ~~Workers' Compensation~~ Advisory Board to fill that vacancy. At any time the list contains ~~fewer less~~ than ~~seven (7)~~ names of ~~currently~~ ~~current~~ certified ~~Arbitrators~~ ~~arbitrators~~, the Chairman shall request that the Advisory Board provide a list of additional certified ~~Arbitrators~~ ~~arbitrators~~ from which to make selections.

b) Request for Voluntary Arbitration

- 1) After filing an ~~Application for Adjustment of Claim~~ ~~application for adjustment of claim~~ but prior to the hearing on ~~Arbitration~~ ~~arbitration~~, the parties may voluntarily agree to submit the application for decision by an ~~Arbitrator~~ ~~arbitrator~~ from a list of ~~five (5)~~ ~~Arbitrators~~ ~~arbitrators~~ selected by the Chairman to hear cases under this Section. If the parties cannot agree on an ~~Arbitrator~~ ~~arbitrator~~ from the list of ~~five (5)~~ ~~Arbitrators~~ ~~arbitrators~~, they may, by agreement, select an ~~Arbitrator~~ ~~arbitrator~~ from the American Arbitration Association.
- 2) Only ~~Applications for Adjustment of Claim that~~ ~~applications for adjustment of claim which~~ involve a dispute over temporary total disability, permanent partial disability or medical expenses may be submitted for decision by an ~~Arbitrator~~ ~~arbitrator~~ under this Section.
- 3) The agreement of the parties to submit the case to voluntary ~~Arbitration~~ ~~arbitration~~ shall be in writing and shall be filed with the Commission. The written agreement shall be on a form provided by the Commission. The form shall contain the following:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- A) a statement indicating the voluntary nature of the proceedings, the waiver of certain rights by the parties, and the statement in subsection (c)(2) to be read by the ~~Arbitrator~~ ~~arbitrator~~ at the beginning of the hearing.
- B) a certification by the ~~Arbitrator~~ ~~arbitrator~~ and any party not represented by an attorney that the statement in subsection (c)(2) was made on the record by the ~~Arbitrator~~ ~~arbitrator~~ at the beginning of the hearing and the party elected to proceed without counsel.
- 4) When an agreement to submit a case for decision by an ~~Arbitrator~~ ~~arbitrator~~ under this Section has been filed with the Commission, the application shall be assigned to the call of the ~~Arbitrator~~ ~~arbitrator~~ chosen by the parties to conduct the hearing. In cases in which the parties agree to select an ~~Arbitrator~~ ~~arbitrator~~ of the American Arbitration Association, the Commission shall notify the parties of the time and place of the hearing.
- c) Conduct of Hearings
- 1) The ~~Arbitrator~~ ~~arbitrator~~ conducting the hearing shall advise the parties on the record at the beginning of the hearing of their rights under Section 19(p) of the ~~Workers' Compensation~~ Act or 19(m) of the Workers' Occupational Diseases Act and of the voluntary nature of the proceedings.
- 2) In all cases in which any party is not represented by an attorney, the following statement shall be made on the record by the ~~Arbitrator~~ ~~arbitrator~~ at the beginning of the hearing:
- Voluntary ~~Arbitration~~ ~~arbitration~~ under Section 19(p) or 19(m) requires an understanding of the Workers' Compensation Act or Workers' Occupational Diseases Act as well as the laws of evidence and trial procedure. You are entitled to be represented by an attorney if you so desire. The ~~Arbitrator's~~ ~~arbitrator's~~ decision under this procedure is conclusive on all findings of fact and your rights of appeal to the Courts are strictly limited to questions of law.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 3) The Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code: Chapter VI) shall apply to hearings in cases submitted for decision by an ~~Arbitrator~~arbitrator under Section 19(p) of the ~~Workers' Compensation~~ Act or 19(m) of the Workers' Occupational Diseases Act, except when inconsistent with this Section or Section 19(p) of the ~~Workers' Compensation~~ Act or Section 19(m) of the Workers' Occupational Diseases Act.
- d) The Commission shall pay reasonable costs for services of an ~~Arbitrator~~arbitrator of the American Arbitration Association.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Review
- 2) Code Citation: 50 Ill. Adm. Code 9040
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9040.10	Amendment
9040.20	Amendment
9040.30	Amendment
9040.40	Amendment
9040.50	Repealed
9040.60	Amendment
9040.70	Amendment
9040.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 16 and 19 of the Worker's Compensation Act [820 ILCS 305/16 and 19]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Illinois Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed rules are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database. Section 9040.10(a)(1) is being amended to allow the filing of Petitions for Review electronically. Section 9040.10(e), Notice of Additional Evidence, is being deleted as it conflicts with Section 19(e) of the Act. The authenticated transcript has to be filed, not just submitted, by any manner provided by the Commission and shall be in compliance with the Transcript Receipt Form. Timely filing is shown by the date applied by the U.S. Postal Service, not the party. Section 9040.20 is being amended to include that Petition's filed under Section 7(a), Section 8(a) and Section 19(h) shall be assigned to the original hearing Commissioner or the Commissioner assigned to a specific territory. Section 9040.40 is being amended and eliminated the opportunity to offer additional evidence. Additionally, parties are allowed to file 5 interrogatories with the Statement of Exception(s), and deleted the provision to file interrogatories 5 days prior to Oral Arguments. Section 9040.60 is being amended to allow for a continuance of Oral Argument only when good cause shown. Further, a Statement of Exception(s) may be filed by either party in any order when multiple reviews are filed. The Statement of Exception(s) are to be filed within 30 days from the Return Date on Review. The provisions allowing for an abstract to be requested by the Commission is being deleted and moved to Section 9040.70(f). The Commission may order the party first filing the Review to prepare an abstract and any other party may file a supplement abstract

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

thereafter. Additionally, any party may seek leave to file an abstract. Section 9040.70 is being amended to indicate that the failure to timely file a Statement of Exception(s) constitutes a forfeiture of the right to Oral Arguments by that party. However, language is being proposed to allow a party that has timely filed to petition the Commission to present Oral Arguments in support of their Statement of Exception(s). The Commission may order Oral Argument at its discretion.

- 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 mandates on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312-814/4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 9040
REVIEW

Section	
9040.10	Perfecting a Review
9040.20	Assignment of Reviews
9040.30	Review Hearing: Date and Place
9040.40	Conduct of Review Hearings
9040.50	Remanding Orders (<u>Repealed</u>)
9040.60	Continuances for Oral <u>Argument(s)</u> and <u>Extension or Extensions</u> <u>Extension(s)</u> of Time for Filing Statements of Exception(s) <u>and/or Addition(s)</u> and Supporting Briefs and Abstracts
9040.70	Statements of Exception(s) <u>and/or Addition(s)</u> and Supporting Briefs and Abstracts
9040.80	Commission Decision on Review

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16].

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 22, p. 90, effective May 25, 1978; amended at 6 Ill. Reg. 8040, effective July 1, 1982; emergency amendment at 6 Ill. Reg. 15307, effective December 7, 1982, for a maximum of 150 days; codified at 7 Ill. Reg. 2345; amended at 8 Ill. Reg. 4499, effective March 28, 1984; amended at 9 Ill. Reg. 13744, effective August 21, 1985; amended at 9 Ill. Reg. 16249, effective October 15, 1985; emergency amendment at 9 Ill. Reg. 19133, effective November 20, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8100, effective May 5, 1986; emergency amendment at 14 Ill. Reg. 4940, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13173, effective August 1, 1990; recodified from 50 Ill. Adm. Code 7040 to 50 Ill. Adm. Code 9040 at 39 Ill. Reg. 9607; amended at 40 Ill. Reg. _____, effective _____.

Section 9040.10 Perfecting a Review

- a) Time for Filing
 - 1) Petitions for Review ~~review~~ of Decision of the Arbitrator ~~an arbitration decision~~ shall be filed in duplicate with the Illinois Workers'

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Compensation Commission (Commission), unless filed electronically,
within the time provided by statute.

- 2) The Petition for Review shall contain a statement of the reviewingpetitioning party's specific exceptions to the Decision of the Arbitrator.

b) Order of Arbitration Transcript

- 1) TranscriptsStenographic reports of arbitration proceedings before the Workers' Compensation Commission shall be furnished to the parties only upon written requestorder filed with the Commission.
- 2) For purposes of perfecting a review, an arbitration transcript must be ordered within the time fixed by statute. The estimated cost of the transcript of proceedings may be obtained from the Workers' Compensation Commission, and the party requesting thesueh transcript shall deposit a sum of money covering the estimated cost before the reporter isshall be required to complete the transcript. An order entered pursuant to Section 20 of the Workers' Compensation Act (the Act) [820 ILCS 305/20] may be submitted for thesaid monetary deposits.

e) Notice of Additional Evidence

~~Parties desiring to introduce additional evidence shall, not less than five (5) days before the date of the hearing on review, give the opposite party a notice apprising him of the fact that additional evidence will be submitted and the nature thereof, at which time a copy of such notice shall also be filed with the Industrial Commission.~~

cd) Authentication of Transcript

- 1) For purposes of perfecting a review, the transcript of arbitration proceedings shall be authenticated in the manner provided by Section 19(b) of the Workers' Compensation Act and Section 19(b) of the Workers' Occupational Diseases Act [820 ILCS 310/19(b)statute [820 ILCS 305/19a], and filed withpresented to the Commission on or prior to the designated time and place set by the Commission as the Return Date on Reviewor at the time set for hearing on review.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 2) ~~In cases in which the first hearing of record before the Arbitrator is commenced after December 18, 1989, the transcript of Arbitration proceedings shall be authenticated in the manner provided by statute, and presented to the Commission prior to or at a designated time and place set by the Commission as the Return Date on Review. The Return Date on Review shall be limited to the filing of the authenticated transcript.~~
- A) The Commission shall notify the parties at least ~~thirty (30)~~ days prior to the date and time set for the Return Date on Review.
- B) The reviewing party ~~shall file~~may elect to submit the authenticated transcript in person, ~~or by mail, or in any manner provided by the Commission in its notice of the Return Date of Review, to the Review Department of the Commission at its offices in Chicago on or before the Return Date on Review.~~
- C) The authenticated transcript shall be in compliance with the Commission's Transcript Receipt Form, ~~be accompanied by a cover letter indicating the case caption, case number, assigned Commissioner and Return Date on Review.~~
- D) Timely filing by mail may be shown by:
- i) ~~shall be shown by a legible postmark date applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at least two (2) calendar days prior to and exclusive of the Return Date on Review; applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its offices in Chicago, Illinois, or~~
- ii) the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the document was received by the Commission ~~at its offices in Chicago, Illinois,~~ showing a date of mailing ~~that~~which is not less than ~~two (2)~~ calendar days prior to ~~and exclusive of~~ the Return Date on Review.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 3) In cases in which Section 19(b-1) Petitions have been filed, the transcript shall be authenticated and presented in accordance with 50 Ill. Adm. Code Section 9020.80(b)(3)(C).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.20 Assignment of Reviews

- a) ~~Reviews shall be assigned to individual Commissioners for hearing in the following manner:~~
- ab) At the conclusion of every work week, the transcript clerk shall deliver to the review clerk a list of the arbitration ~~transcripts~~transcript completed during that week. The transcript list shall be in numerical order according to the Commission docket number of each case. No information other than the transcript name and number shall appear on the list.
- be) Upon receipt of the list of completed arbitration transcripts ~~completed that week~~, the review clerk will cause those cases to be randomly assigned to a Commissioner by a computer program ~~for Cook County cases. Cases outside Cook County shall be assigned to that particular territory.~~
- c) Petitions filed post-arbitration under Section 7(a), 8(a) and 19(h) of the Act shall be assigned to the original hearing Commissioner or the Commissioner assigned to the particular territory where the original hearing was held.
- d) Assignments shall be final except upon disqualification of a Commissioner as provided in ~~Arbitration (50 Ill. Adm. Code 9030.30)~~ or upon motion by any party for good cause shown.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.30 Review Hearing: Date and Place

The Commission shall give ~~written~~ notice to the parties at least 10 days prior of the date, ~~and~~ place and time set for a Review~~the initial hearing on review at least ten (10) days prior to the time fixed for hearing. Review shall be set at a place reasonably convenient to the parties.~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.40 Conduct of Review Hearing

- a) ~~All cases on review under Section 19a of the Act in which the first hearing of record before the Arbitrator was commenced on or before December 18, 1989, shall proceed as follows:~~
- 1) ~~Order of Proof~~
~~The reviewing party, or the party whose review is filed first, shall have the right to open and close the evidence.~~
 - 2) ~~Limitation of Evidence~~
~~Evidence may be adduced on review if the evidence:~~
 - A) ~~relates to the condition of the Petitioner since the time of the arbitration hearing; or~~
 - B) ~~relates to matters that occurred or conditions that developed after the arbitration hearing; or~~
 - C) ~~was not introduced at the arbitration hearing for good cause.~~
- ab) In all cases on Review, ~~review under Section 19a of the Act in which the first hearing of record before the Arbitrator is commenced after December 18, 1989,~~ no additional evidence shall be introduced by the parties before the Commission unless relating to procedural issues relevant to the Review process.
- be) Special Findings on Review
- 1) Either party may request in writing that the Commission make up to 5 special findings upon any ~~written question or~~ questions of law or fact (~~not to exceed five (5) in number~~) submitted to it concerning issues raised by the Review ~~review~~. ~~Said interrogatories shall be filed at least five (5) days prior to the Oral Argument or five (5) days after completion of the review hearing, whichever is later.~~
 - 2) The interrogatories ~~In all cases referred to in subsection (b) above, said interrogatories~~ shall be filed at the time of filing the parties' Statement of

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~Exception(s) at least five (5) days prior to the Oral Argument or five (5) days after the filing of the transcript, whichever is later.~~

- 3) A copy of the interrogatories must be served on ~~all parties~~the other side with appropriate proof of service.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.50 Remanding Orders (Repealed)

~~Upon receipt of a remanding order from a reviewing court, the Commission shall docket same and set for hearing in the same manner as petitions for review, except that where practical the cause shall be assigned to the original hearing Commissioner.~~

(Source: Repealed at 40 Ill. Reg. _____, effective _____)

Section 9040.60 Continuances for Oral Arguments~~Argument(s)~~ and Extension or Extensions~~Extension(s)~~ of Time for Filing Statements of Exception(s)~~Exception(s)~~ and/or Addition(s) and Supporting Briefs and Abstracts

Parties ~~shall present~~are expected to make their oral arguments at the time and date set by the Commission. ~~Continuance~~No continuances of an oral argument or extension of time for filing Statements of Exception(s) ~~and/or Addition(s)~~ and Supporting Briefs and Abstracts ~~or other documents~~ shall be granted ~~except~~ by ~~Order~~order of the Commission only for good cause shown.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.70 Statements of Exception(s) ~~and/or Addition(s)~~ and Supporting Briefs and Abstracts

- a) In the event that more than one party files for review, without regard to who filed first, each party may file its own Statement of Exception(s), as well as a Response.
- ba) Except in cases ~~in which~~where Section 19(b-1) Petitions have been filed, each party filing a ~~Petition~~petition for ~~Review~~review of ~~an~~the Arbitrator's decision, or other proceedings ~~such as under Sections 19(h) or 8 (a)~~ in which the right to oral arguments has been granted, or in which written statements of the parties have been ordered by the Commission, shall file its ~~Statement~~statement of

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~Exception(s)~~ ~~exception(s) and/or addition(s)~~ and ~~Supporting Brief~~ ~~supporting brief~~ setting forth:

- 1) the identity of the party filing;
- 2) the names of the parties and the ~~Commission~~ ~~Commission's~~ number ~~assigned to~~ ~~of~~ the ~~case or~~ cases;
- 3) the name of the Commissioner to whom the case has been assigned on Review;
- 4) the date, if any, scheduled for oral argument;
- 5) the name of the Arbitrator who rendered the decision or entered the order most recently prior to the filing of the party's petition;
- 6) the Arbitrator's findings, to include, whenever applicable:
 - A) date of accident and/or (last) exposure found or alleged;
 - B) the number of weeks of temporary total disability compensation awarded; and the amount of compensation paid;
 - C) the dollar amount of medical expenses awarded;
 - D) the nature of the disability and/or disfigurement and the number of weeks, for disfigurement, or the percentage of loss, for permanent partial disability or specific loss, if any, awarded, or the fact of any award of benefits by reason of death or permanent total disability;
 - E) the dollar amount of any awards, or other findings, under Sections 4(i), 8(f), 16, 19(k), and ~~Section~~ 19(l), of the Act, if any;
- 7) appellant's ~~Statement~~ ~~statement~~ of ~~Exception(s)~~ ~~exception(s) and/or addition(s)~~ to the Arbitrator's decision to include:
 - A) separate headings identifying each issue asserted as an exception or addition;

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- B) statements of particular evidence in the record pertaining to each ~~such~~ issue, together with citation of any legal authorities, including Commission decisions, ~~that~~~~which~~ support the position of ~~the~~~~that~~ issue.
- ~~c~~b) ~~Three~~ (3) copies of the appellant's ~~Statement~~~~statement~~ of ~~Exception(s)~~~~exception(s) and/or addition(s)~~ and the ~~Supporting Brief~~~~supporting~~ ~~brief~~ shall be filed with the Commission and served on all parties not later than ~~thirty (30) days from the Return Date on Review, date of closing of proofs on Review if no transcript of the hearing on Review is to be prepared, or thirty (30) days from the date of notice of mailing or transmittal of the transcript of evidence on Review whenever such a transcript is to be prepared.~~ The appellee may submit a response, ~~filing three in which case he must file three (3) copies of the response with the Commission, and shall serve copies of the response thereof on all parties within fifteen (15) days from the last day allowed for the filing of appellant's Statements~~statements of ~~Exception(s)~~~~exception(s) and/or addition(s)~~ and ~~Supporting Brief~~supporting brief. ~~A Statement~~Such a statement of ~~Exception(s)~~~~exception(s) and/or addition(s)~~ and ~~Supporting Brief~~supporting brief, and any response ~~to those documents thereto~~, shall be written or printed on one side of no more than ~~twenty (20)~~ 8½" x 11" sheets of paper, ~~or contains no more than 5,200 words, whichever is greater~~, and shall include a certificate of the date and manner of service of copies on all other parties.
- e) ~~In addition to the statement of exception(s) and/or addition(s) and supporting brief required in the above paragraph depending on the size of the case and the complexity of the issues involved, the reviewing Commissioner may order that an abstract of the record be filed with the Commission and served on all parties by each appealing party not later than thirty (30) days from the date of closing of proofs on Review or thirty (30) days from the date of notice of mailing or transmittal of the transcript of evidence on Review and each responding party shall have fifteen (15) days from the last day allowed for the filing of the opposing appellant's supporting brief within which to file a supplemental or corrected abstract. Appellant's reply, if filed, shall be limited to the matter raised in the supplemental or corrected abstract and response and shall be filed within ten (10) days after the date for filing of the appellee's abstract.~~
- d) All documents filed under this Section shall bear the caption of the case, including the Commission case number, and shall include, directly under the case number in the caption, the name of the Commissioner to whom the case has been assigned

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

for the Review proceedings, together with the date set for oral argument, when applicable, ~~directly under the case number in the caption.~~ Documents filed pursuant to this Section will not be considered to have met the requirements for filing if they do not comply with the requirements of subsection (e). ~~Oral~~The Commission will only consider, and oral arguments will be limited to; the issues raised in both the Review proceedings stipulation form or its equivalent for proceedings such as those under Section 19(h) and (f) of the Act and in the party's ~~Statement~~statement of ~~Exception(s)~~exception(s) and/or addition(s) and ~~Supporting Briefs~~supporting brief, and to those in any complying response to those documents thereto. Failure of any ~~appellant or petitioning~~ party to ~~file~~file timely ~~file~~file any ~~Statement~~statement of ~~Exception(s)~~exception(s) and/or addition(s) and ~~Supporting Brief or Response~~Supporting brief as required by this Section, including an abstract when required under subsection ~~(f)~~(e) of this Section, shall constitute a forfeiture waiver of the right to oral argument by that party. When a party has timely filed, that party may petition the Commission to present oral arguments in support of its Statement of Exception(s) and Supporting Brief and/or Response Brief. Within 15 days after the date the last filing was due, a party that has timely filed may petition the Commission for oral argument. The assigned Commissioner may order oral argument at his or her discretion, not withstanding anything to the contrary in this Part, and an election not to advise the Commission of any reason to change the Arbitrator's decision or to grant the petition; and in any case in which no appealing party has filed a statement of exception(s) and/or addition(s) and supporting brief together with any abstract required by this Section, neither party will be entitled to an oral argument before the Commission.

- e) Timely filing shall be shown by:
- 1) the date file stamped on the document at the time of receipt by the Commission ~~at its office in Chicago, Illinois;~~
 - 2) a legible postmark date applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at least ~~two~~(2) calendar days prior to and exclusive of the date on which ~~the such~~ document was due to be filed in accordance with this subsection (e) rule, applied by the U.S. Postal Service, and not by a party, to the envelope in which the document is received by the Commission at its offices in Chicago, Illinois, or the date applied by the U.S. Postal Service to a certified or registered mail receipt bearing the same certification or registry number as the envelope in which the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~document was received by the Commission at its offices in Chicago, Illinois, showing a date of mailing which is not less than two (2) calendar days prior to and exclusive of the date on which such document was due to be filed. If the date required for filing or mailing falls on a Saturday, Sunday, or holiday, the time for filing or mailing shall be the next date that which is not a Saturday, Sunday or holiday;~~

- 3) an Order entered at the discretion of the assigned Commissioner upon written Motion.
- f) ~~In all cases on review under Section 19a of the Act in which the first hearing of record before the arbitrator is commenced after December 18, 1989, three (3) copies of the appellant's statement of exception(s) and/or addition(s) and supporting brief shall be filed with the Commission and served on all parties not later than thirty (30) days from the Return Date on Review. The appellee may submit a response, in which case he must file three (3) copies of the response with the Commission and serve copies thereof on all parties within fifteen (15) days from the last day allowed for the filing of appellant's statement of exception(s) and/or addition(s) and supporting brief. Such a statement of exception(s) and/or addition(s) and supporting brief, and any response thereto, shall be written or printed on one side of no more than twenty (20) 8½" x 11" sheets of paper, and shall include a certificate of the date and manner of service of copies on all other parties.~~
 - 1) ~~The requirements set forth in subsections (a),(d) and (e) above are applicable to subsection (f).~~
- f2) Abstracts on Review~~Subsection (c) above is applicable with the addition that in any case assigned to the Special Panel in which an Abstract of the Record has not been filed by January 1, 1990, or in any case remaining before the permanent panel of Commissioners, the Special Panel or,~~
 - 1) Any~~any~~ reviewing Commissioner ~~of the permanent panels~~ may, by written notice to the parties, ~~order request~~ the party first filing for Review~~appealing first~~ to file an Abstract of the Record and serve a copy of that abstract upon all other parties within ~~thirty (30)~~ days of the notice. Any other~~The other~~ party may file a supplemental Abstract within ~~fifteen (15)~~ days after~~of the~~ receipt of the original Abstract.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 2) Upon Motion, any party may request leave to file an Abstract of the Record, which shall be allowed at the discretion of the reviewing Commissioner, as provided in subsection (f)(1).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9040.80 Commission Decision on Review

In all cases ~~in which, where~~ at or before the closing of proofs on Review, a party has filed a written request for a full written decision pursuant to Section 19(e) of the ~~Workers' Compensation Act [820 ILCS 305/19(e)]~~, the Commission will issue a decision, which shall include:

- a) the Commission's number ~~assigned to~~ the case, ~~and~~ the names of the parties, and the name of the county in which the case was heard on ~~Arbitration~~ arbitration;
- b) the Arbitrator's findings as relevant to the issues on Review, including, if relevant:
 - 1) the date or dates of the accident, exposure ~~or, of~~ last exposure;
 - 2) the number of weeks for which temporary total disability compensation was awarded, if any;
 - 3) the dollar amount of medical expenses awarded, if any;
 - 4) the nature and number of weeks, in case of disfigurement, or percentages, in case of partial losses of use, awarded with respect to disfigurement and permanent partial disability; ~~;~~ the nature and the number of weeks awarded with respect to any specific losses under Section 8(e) of the Act, if any; ~~;~~ or the fact that benefits were awarded on account of death or permanent total disability;
 - 5) findings under Section 4(i), ~~Section 8(j), Section 16, Section 19(k), or Section 19(1)~~ of the Act, if applicable;
- c) the ~~identity/identities~~ identity(ies) of the ~~Party/parties~~ party(ies) who has ~~(or have)~~ filed filed a Petition for Review, or other proceedings as under Section 19(h), ~~Section 8(a), or Section 8(f)~~ of the Act, and a statement of the issue to be decided on Review;

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- d) the Commission's findings of fact and conclusions of law upon each claim of exceptions ~~or for additions~~ to the Arbitrators decision, including a statement of the particular evidence in the record upon which the findings and conclusions are based;
- e) applicable ~~Orders~~orders resulting from the findings of fact and conclusions of law;
- f) a statement of the conditions, if any, for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 9060.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Oral Arguments
- 2) Code Citation: 50 Ill. Adm. Code 9050
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9050.10	Amendment
9050.20	Amendment
9050.30	Amendment
9050.40	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Worker's Compensation Act [820 ILCS 305/19 and 16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendment to Section 9050.10 clarifies the parties' right to oral argument. Specifically, the right to oral argument requires compliance with 50 Ill. Adm. Code 9040.70. The proposed amendment also allows the Commission to grant oral argument by Order of the Commission. The remainder of the changes to Sections 9050.10, 9050.20, 9050.30 and 9050.40 are grammatical in nature.
- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 9050
ORAL ARGUMENTS

Section	
9050.10	Right to Oral Argument
9050.20	Time Allotted
9050.30	Section 19(h) Petitions
9050.40	Petitioner's Presence at Oral Argument

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16].

SOURCE: Filed and effective March 1, 1977; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2348; recodified from 50 Ill. Adm. Code 7050 to 50 Ill. Adm. Code 9050 at 39 Ill. Reg. 9609; amended at 40 Ill. Reg. _____, effective _____.

Section 9050.10 Right to Oral Argument

Upon the request of ~~any~~ party that complies with 50 Ill. Adm. Code 9040.70, and no later than the conclusion of the review hearing, or upon order of the assigned Commissioner, a cause shall be set down for Oral Argument~~oral argument~~ before not less than a majority of the members of the assigned Commission panel.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.20 Time Allotted

- a) Oral Argument on all cases in which Nature and Extent of ~~where Nature and Extent of~~ injury is the sole issue shall be limited to five ~~(5)~~ minutes for each side.
- b) Oral Argument~~argument~~ shall be limited to ten ~~(10)~~ minutes for:
 - 1) each side, inclusive of rebuttal time, on all other cases; and
 - 2) for those cases in which~~where~~ a total permanent disability or death award

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

has been entered, regardless of the number of issues involved.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.30 Section 19(h) Petitions

Oral ~~Argument~~argument may be had on hearings under Section 19(h) of the Workers' Compensation Act in the same manner as provided in Section ~~9050.20~~9050.20.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9050.40 Petitioner's Presence at Oral Argument

- a) The ~~Petitioner~~petitioner, upon at his own request, or at the request of a ~~Commissioner of the assigned panel~~the hearing commissioner, shall present ~~himself or herself~~ for examination at the time set for ~~Oral Argument~~oral argument.
- b) In the event that neither the ~~Petitioner~~petitioner nor a ~~Commissioner~~requests the ~~hearing commissioner request~~ the presence of the ~~Petitioner~~petitioner, the ~~Respondent~~respondent may request the ~~Petitioner's~~his presence, subject to the discretion of a ~~Commissioner of the hearing commissioner~~ the assigned panel. If, and if that such presence is ordered, by the ~~hearing commissioner~~, the ~~Respondent~~respondent shall pay the ~~Petitioner~~ directly, or his or her attorney, if represented, in advance of the time fixed for ~~Oral Arguments~~said oral argument sufficient monies to defray the necessary expense of travel by the most convenient means to and from the place of examination and reimbursement for any loss of wages caused because of loss of working time, as provided under Section 12 of the ~~Workers' Compensation Act relative to physical examinations.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Judicial Review
- 2) Code Citation: 50 Ill. Adm. Code 9060
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9060.10	Amendment
9060.20	New Section
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Worker's Compensation Act [820 ILCS 305/19 and 16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendment to Section 9060.10 requires that the moving party provide notice to the Commission of its intent to file an appeal to the Circuit Court in conformance with Section 19(f)(1) of the Workers' Compensation Act. The proposed amendments also add Section 9060.20, which establishes a requirement on the moving party to file a copy of any remanding Order with the Commission within 30 days after receipt of the Order from the reviewing court. The Commission will thereafter set the matter for hearing.
- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER VI: WORKERS' COMPENSATION COMMISSIONPART 9060
JUDICIAL REVIEW

Section

9060.10 Certification of Record: Conditions

[9060.20 Orders on Judicial Review](#)

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16].

SOURCE: Filed and effective March 1, 1977; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 1242; amended at 9 Ill. Reg. 2496, effective February 11, 1985; expedited correction at 19 Ill. Reg. 292, effective February 11, 1985; recodified from 50 Ill. Adm. Code 7060 to 50 Ill. Adm. Code 9060 at 39 Ill. Reg. 9610; amended at 40 Ill. Reg. _____, effective _____.

Section 9060.10 Certification of Record: Conditions

- a) ~~Receipt of Notice of Intent to File for Review in the Circuit Court~~~~Cost of Record~~
Judicial review of Commission decisions is had by summons as provided in the Workers' Compensation Act [820 ILCS 305/19]. ~~No request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission exhibits to the clerk of the Circuit Court proof of filing with the Commission of the notice of the intent to file for review in the Circuit Court or an affidavit of the attorney setting forth that notice of intent to file for review in the Circuit Court has been given in writing to the Secretary or Assistant Secretary of the Commission.~~~~In its decision on review, the Commission shall determine the amount of the probable cost of the record to be filed as a return to the summons. Upon payment of this amount, the Commission shall furnish the reviewing party a certified receipt.~~
- b) Amount of Bond
In its decision on review, pursuant to Section 19(f)(2) of the Act, the Commission, or any member thereof, shall fix the amount of bond, if any, required to be filed by the appealing party as a return to the summons. Bond shall be set at an amount equal to \$100 over the total unpaid amount of the award rendered by the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Commission on review subject to a maximum of \$75,000.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9060.20 Orders on Judicial Review

- a) Upon receipt of a final Order from the reviewing court or an Order from the reviewing court that remands the matter back to the Commission, the moving party shall file a copy of the Order with the Commission within 30 days after receipt, with notice of filing to all parties.
- b) Upon receipt of an Order from a reviewing court, the Commission shall docket the Order and set the matter for hearing in the same manner as Petitions for Review, except that, when practical, the cause shall be returned to the original Commissioner.

(Source: Added at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Settlement Contracts and Lump Sum Petitions
- 2) Code Citation: 50 Ill. Adm. Code 9070
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
9070.10	Amendment
9070.20	Amendment
9070.30	Amendment
9070.40	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Worker's Compensation Act [820 ILCS 305/19 and 16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. Section 9070.10 requires that settlement contracts be filed in quadruplicate; however, the Section has been amended to require that only one copy be provided for each additional case number listed on the settlement contract. The proposed amendments require that the settlement contract be accompanied by the Attorney Representation Agreement, if not previously filed. Section 9070.10(b)(1), which requires a report relative to the condition of both eyes when an accident involves injury to one eye, has been deleted. Further, the requirement that the petitioner file a written explanation of how dependants are to be supported in a death case has been deleted. The proposed amendment also now requires that a disabled petitioner may be requested to provide any relevant information to determine the appropriateness of a settlement instead of the obligation that petitioner provide written explanation of how he or she and any dependants will be cared for during a period of disability, if he or she has not returned to gainful employment at the time of the settlement. The amendment also allows the Commission to randomly assign settlement contracts to an Arbitrator or Commissioner in an appropriate venue. The proposed amendment also allows that petitioner's presence is discretionary for approval of the settlement contract. Section 9070.40 has been amended to state that when a settlement contract has been rejected by a Commissioner and re-assigned to an arbitrator for hearing on the merits, no new settlement contract may be approved by the arbitrator but must be presented to the Commissioner who rejected the original settlement contract for consideration. Further, the rules have been amended to allow the parties to reserve the right to amend the settlement contract to conform to any regulatory requirements i.e., Medicare.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9070

SETTLEMENT CONTRACTS AND LUMP SUM PETITIONS

Section

9070.10	Settlement Contracts
9070.20	Agreed Petitions for Lump Sum Settlement
9070.30	Contested Petitions for Lump Sum Settlement
9070.40	Action by Commission

AUTHORITY: Implementing Section 19 and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/19 and 16].

SOURCE: Filed and effective March 1, 1977; amended at 2 Ill. Reg. 49, p. 244, effective December 7, 1978; amended at 3 Ill. Reg. 4, p. 13, effective January 21, 1979; amended at 4 Ill. Reg. 26, p. 159, effective July 1, 1980; emergency rule at 4 Ill. Reg. 41, p. 171, effective September 25, 1980 for a maximum of 150 days; amended at 5 Ill. Reg. 4580, effective April 13, 1981; emergency rule at 5 Ill. Reg. 8547, effective August 12, 1981 for a maximum of 150 days; amended at 6 Ill. Reg. 3570, effective March 22, 1982; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2349; recodified from 50 Ill. Adm. Code 7070 to 50 Ill. Adm. Code 9070 at 39 Ill. Reg. 9611; amended at 40 Ill. Reg. _____, effective _____.

Section 9070.10 Settlement Contracts

- a) Filing Requirements
 - 1) Settlement Contracts shall be filed in quadruplicate on a form provided by the Commission and docketed, and one copy provided for each additional case number listed on the contract. ~~When~~Where an application is pending, the contracts must bear the docket number of the application. ~~When~~Where no application has been filed, the contracts shall be given an original number and letter in the same manner as an application. In cases involving payment into the Second Injury Fund, one ~~(1)~~ additional copy shall be filed for record purposes. In addition, a stamped envelope must be submitted, addressed to each person who is to receive copies of the approved contract by mail.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 2) Settlement Contracts shall be accompanied by an "Attorney Representation Agreement" ~~on a form prescribed by the Commission and completely filled out and signed by Petitioner and attorney, if such contract has not been~~ previously filed.
- b) Contents
- Settlement ~~Contract~~Contracts forms shall be completed in full and accompanied by an appropriate signed physician's report concerning the nature and extent and probable duration of the disability resulting from the alleged accident. Settlement Contract forms are available at <http://www.iwcc.il.gov/forms.htm>.
- ~~1)~~ In cases of injury to an eye, the report shall state the prognosis with regard to the uninjured eye as well as the injured eye.
 - ~~12)~~ In cases involving claim for death benefits, the report shall refer to the medical cause of death. In addition, in death cases, ~~photostatic~~ copies of the death certificate, and, ~~when~~where applicable, marriage certificate of the decedent and birth certificates of any minor children of the decedent, shall accompany the Settlement Contracts. ~~In addition, the Petitioner shall file a written explanation of how the dependents of the decedent will be supported following the approval of the appropriateness of the settlement.~~
 - ~~23)~~ The ~~If a Petitioner has not returned to gainful employment at the time of the settlement due to disability caused by the accident, the~~ Petitioner shall, upon request, provide file a written explanation of how the Petitioner and his dependents will be cared for during the length of the disability, and any other information relevant to determining the appropriateness of the settlement.
- c) Assignment
- ~~1)~~ Settlement Contracts submitted by a Respondent and Petitioner represented by an attorney, wherein the Petitioner waives his right to have a settlement approved by an Arbitrator or a Commissioner shall be approved by the Workers' Compensation Commission without the necessity of review by an Arbitrator or Commissioner if and only if the Petitioner's attorney submits a written statement that:
 - ~~A)~~ The Petitioner is not under medical care or undergoing physical or

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~vocational rehabilitation;~~

- ~~B) The Petitioner has returned to gainful employment for 60 days or more prior to the date of the settlement; and~~
- ~~C) The injury did not result in a disability listed in Attorney's Fees (50 Ill. Adm. Code 9080.10(a)).~~

~~12) Settlement Contracts on cases originating in Cook County that, which have not previously been assigned to an Arbitrator or Commissioner may be assigned randomly to an Arbitrator in the appropriate venue by a computer programCommission. ~~Settlement Contracts on cases originating outside of Cook County may be filed with the Arbitrator to whom the case is assigned or with the Commissioner who reviews cases from the territory in which the accident occurred. Settlement Contracts on cases which have been previously assigned to a Commissioner for review, shall be assigned to said Arbitrator or Commissioner.~~~~

~~23) If a Petitioner is not represented by an attorney, a different assignment procedure may be established from time to time by directive of the ChairmanCommission for the benefit of thosesuch Petitioners. An attorney may makefile a motion requesting an immediate hearing on a settlement for good cause. If the motion is granted, the settlement maywill be assigned in the same manner as settlements of non-represented Petitioners.~~

~~3) When the venue is outside Cook County, the parties may present Settlement Contracts by appearing personally before an Arbitrator assigned to that venue and requesting approval of the contracts.~~

- d) Appearance of Petitioner Discretionary
If both parties are represented by an attorney, the Arbitrator or Commissioner to whom the Settlement Contract has been assigned may approve or reject the Settlement Contract solely on the basis of information in the settlementSettlement and the medical and other reports required to be submitted pursuant to subsection (b)Subsection (B) of this Part. Prior to rejection of a Settlement Contract ~~in such a case~~, the Arbitrator or Commissioner shall give the parties an opportunity to be heard.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9070.20 Agreed Petitions for Lump Sum Settlement

- a) All of the requirements set forth in Section 9070.10 shall have equal applicability to agreed Petitions for Lump Sum Settlement.
- b) In all cases, but particularly those involving either minor Petitioners or minor beneficiaries, the Commission reserves the right to elicit evidence concerning the use to which the proceeds of the settlement are to be put pursuant to Section 9 of the Act.
- c) ~~When~~Where commutation is requested, the Commission reserves the sole right to compute the allowable commutation and enter the net amount ordered paid by the Respondent.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9070.30 Contested Petitions for Lump Sum Settlement

Contested Lump Sum Settlement Petitions shall be docketed and set for hearing pursuant to 50 Ill. Adm. Code 9040.20(c)~~in the same manner as Petitions for Review.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9070.40 Action by Commission

- a) Upon presentation of Settlement Contracts or Petitions for Lump Sum Settlement, the Commission shall, after hearing or otherwise, either "approve" or "reject" the Contract or Petition for Lump Sum Settlement. If rejected, the Settlement Contract or the Petition for Lump Sum Settlement shall remain in the Commission file to accompany the application filed, or any to be filed, for the accidental injuries alleged in the Contract or Petition, until the case is assigned to an Arbitrator for hearing. At that time, the Rejected Settlement Contract shall be removed from the file and kept in a separate file until a final award has been entered by the Commission. In no event shall that case be assigned to any Arbitrator who has previously rejected a Settlement Contract presented in that case.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- b) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~the~~said case lies outside Cook County, it shall be the duty of the Arbitrator to return ~~the~~said file to the ~~Workers' Compensation~~ Commission, whose function it shall be to transfer the ~~said~~ case to a new Arbitrator in the nearest contiguous geographical territory; and ~~will the Workers' Compensation Commission shall~~ notify all parties of the appropriate time, place and date of further action pertinent thereto.
- c) ~~When~~Where a Settlement Contract has been rejected by an Arbitrator and the venue of ~~the~~said case lies in Cook County, it shall be the duty of the Arbitrator to notify the ~~Workers' Compensation~~ Commission, whose function it shall be to transfer ~~the~~said case to a new Arbitrator chosen randomly from all Arbitrators located in Cook County.
- d) When a Settlement Contract has been rejected by a Commissioner and re-assigned to an Arbitrator for hearing, no Settlement Contract may be approved by any Arbitrator. Any additional Settlement Contract must be presented to the Commissioner who rejected the prior Settlement Contract for consideration and possible approval.
- e) Parties may reserve the right to amend an approved Settlement Contract by stipulation and Order of a Commissioner to conform with regulatory requirements including, but not limited to, those of Social Security and Medicare. In no event may those amendments abridge the substantive rights of the parties as listed in the previously approved Settlement Contract.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Disciplining of Attorneys; Agents
- 2) Code Citation: 50 Ill. Adm. Code 9090
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
9090.10	Amendment
9090.20	Amendment
- 4) Statutory Authority: Implementing Section 19 and authorized by Section 16 of the Worker's Compensation Act [820 ILCS 305/19 and 16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendment gives the Commission the option of referring disciplinary matters to the Attorney Registration Disciplinary Commission (ARDC). As disciplinary issues are now referred to the ARDC, Section 9090.10(b) and (c) are being deleted, as any hearings will be had by the ARDC, if the ARDC deems same appropriate. The remaining changes were grammatical in nature.
- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9090

DISCIPLINE OF ATTORNEYS; AGENTS

Section

9090.10 Disciplining of Attorneys: Procedure

9090.20 Disciplining of Agents: Procedure

AUTHORITY: Implementing Section 19 of, and authorized by Section 16 of, the Workers' Compensation Act [820 ILCS 305/16 and 19].

SOURCE: Filed and effective March 1, 1977; codified at 7 Ill. Reg. 1243; recodified from 50 Ill. Adm. Code 7090 to 50 Ill. Adm. Code 9090 at 39 Ill. Reg. 9613; amended at 40 Ill. Reg. _____, effective _____.

Section 9090.10 Disciplining of Attorneys: Procedure

~~a) When~~ ~~Where~~ a verified, written allegation of improper, unethical or contemptuous conduct is made against an attorney, relating to practice before the Commission, by a party to pending litigation or any officer of the Commission, the Commission may refer that matter to the Attorney Registration and Disciplinary Commission. ~~hold a hearing to determine the truth or falsity of the allegations.~~

- b) ~~The attorney whose conduct is challenged shall be entitled to reasonable notice of the time and place of such hearing and the charges against him. He shall have the right to be present at the hearing and to adduce any evidence in his defense. He shall have the right to cross-examine and the right to use of the subpoena power of the Commission. A complete transcript shall be made of the hearing.~~
- e) ~~If, at the conclusion of the hearing, the Commission finds that the attorney has acted improperly, unethically, or contemptuously, the Commission may take appropriate disciplinary action against the attorney, not inconsistent with the Illinois Supreme Court's jurisdiction over professional conduct of attorneys or the provisions of the Workers' Compensation Act. Such appropriate action shall specifically include the filing of a complaint against the attorney by the Commission, together with the transcript of the hearing, with the appropriate agency designated by the Illinois Supreme Court.~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9090.20 Disciplining of Agents: Procedure

- a) Whenever the Commission finds that an insurer, self-insurer, claims service ~~or~~ other association, or ~~an agent of one of these entities~~~~their agents~~, is practicing a policy of unfairness toward the claimant in the handling and processing of claims under the Workers' Compensation or Occupational Diseases ~~Act~~~~Acts~~, the Commission may issue a ~~Rule to Show Cause~~ ~~rule to show cause~~ why ~~the~~~~such~~ carrier or agent should not be suspended from writing insurance or processing workers' compensation claims within the ~~State~~~~state~~.
- b) The recipient of ~~the Rule to Show Cause~~ ~~such a part to show cause~~ shall be entitled to be informed of the charges against it, and to have an evidentiary hearing on the merits of the charges. The recipient shall have the right to be present, to call witnesses, and ~~to~~ adduce (~~i.e., provide~~) other pertinent evidence.
- c) After a full hearing, the Commission may invoke appropriate sanctions against the recipient as authorized by statute, specifically including citation (~~i.e., submission~~) to the Attorney General for ~~action on any violation of the law~~~~misdemeanor~~, or certification to the Director of Insurance for suspension of license.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Insurance Regulations
- 2) Code Citation: 50 Ill. Adm. Code 9100
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9100.20	Amendment
9100.40	Amendment
9100.60	Amendment
9100.85	New Section
9100.90	Amendment
- 4) Statutory Authority: Implementing Section 4 of the Workers' Compensation Act [820 ILCS 305/4], Section 4 of the Workers' Occupational Diseases Act [820 ILCS 310/4] and authorized by Section 16 of the Workers' Compensation Act [820 ILCS 305/16] and Section 16 of the Workers' Occupational Diseases Act [820 ILCS 310/16]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendments are designed to replace rules that are outmoded by today's practice and the Commission's implementation of an electronic database. Section 9100.20(c) is being added to require service companies to provide more detailed information regarding the nature of the work of loaned employees such that it will provide the Commission with a better understanding of possible liability and risk. Section 9100.40 restates the rule informing self insureds that coverage includes both the Workers Compensation and Occupational Diseases Acts. Section 9100.40(a)(1)(G)(v) provides a methodology for risk calculation. Section 9100.40 is being amended to indicate the nature of required documents for self insurance and that the minimum security will be no less than \$200,000. Section 9100.40(i)(1) is being amended to notify self insureds that the termination of the self insurance privilege does not release the security that was posted to obtain the privilege until all outstanding liability has been liquidated to the satisfaction of the Chairman. Section 9100.40(i)(2) is being amended to require that all former self insureds remain liable for any assessments made by the Commission until the Chairman releases that obligation. Section 9100.85 (a)(1) is being amended to conform to the Act and requires reimbursement from any responsible parties as stated in the Act. In conformance with the Act, Section 9100.85 (a)(2) is being added that allows the injured workers benefit fund to seek reimbursement from any responsible party pursuant to Section 5(b) of the Workers' Compensation or Occupational Diseases Acts. Section 9100.90(b)(1)(C) provides any claim for penalties may include both administrative costs and savings realized by uninsureds by not paying

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

premiums for not paying insurance. Section 9100.90(c)(2)(c)(C)(iii-iv) provide that, upon the presentation of pooling agreements and loaning and borrowing agreements may be used in the preparation and submission of a Notice of Non-Compliance. Section 9100.90(g) provides a methodology by which notice, service, hearing assignments, work stop orders and the release of work stop orders, may be effectuated by both the Insurance Compliance Division of the Workers' Compensation Commission and the Workers' Compensation Commission. Section 9100.90 also contains grammatical changes.

- 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 on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
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312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9100

INSURANCE REGULATIONS

Section

9100.10	Insurance Forms
9100.20	Policy Information Page
9100.30	Termination of Insurance
9100.40	Requirements for Approval as a Self-Insurer
9100.50	Self-Insurers to File Statements and Reports
9100.60	Administration of Claims Against Securities, Indemnity or Bonds of Self-Insurers
9100.70	Administration of Claims Against Group Self-Insurer's Insolvency Fund
9100.80	Administration of Claims Against the Self-Insured Employers Liability Fund
<u>9100.85</u>	<u>Administration of Claims Against the Injured Workers' Benefit Fund</u>
9100.90	Insurance Coverage: Compliance

AUTHORITY: Implementing Section 4 of the Workers' Compensation Act [820 ILCS 305] and Section 4 of the Workers' Occupational Diseases Act [820 ILCS 310], and authorized by Section 16 of the Workers' Compensation Act and Section 16 of the Workers' Occupational Diseases Act.

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 8910, effective August 24, 1981; codified at 7 Ill. Reg. 2345; emergency amendment at 8 Ill. Reg. 15976, effective August 16, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3705, effective March 12, 1985; emergency amendment at 10 Ill. Reg. 6003, effective April 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 15615, effective September 10, 1986; emergency amendment at 14 Ill. Reg. 4920, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13149, effective August 1, 1990; amended at 15 Ill. Reg. 16969, effective November 12, 1991; amended at 20 Ill. Reg. 3826, effective February 15, 1996; recodified from 50 Ill. Adm. Code 7100 to 50 Ill. Adm. Code 9100 at 39 Ill. Reg. 9614; amended at 40 Ill. Reg. _____, effective _____.

Section 9100.20 Policy Information Page

- a) Every insurer, upon issuance of an insurance policy, must, within ~~ten~~(10) days, file a policy information page with the National Council on Compensation

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Insurance showing the ~~location or locations~~location(s) and character of the business ~~operation or operations~~operation(s), the date effective, and the policy number. The ~~policy~~Policy information page must be ~~countersigned~~counter signed by a duly authorized agent of the insurance company.

- b) A policy information page shall be required ~~when~~where a previous policy information page has been filed and the coverage has been extended, renewed or otherwise continued by the same insurance carrier.
- c) Any service company, company or employer that loans employees or supplies employees and/or workers' compensation benefits must provide, for each client, the company's name, FEIN, address and location or locations and character of the business operation or operations. Information provided must be to the Commission's satisfaction.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9100.40 Requirements for Approval as a Self-Insurer

- a) Application
- 1) Initial Application
- A) Any private employer under the Workers' Compensation Act [820 ILCS 305] (the Act) and/or the Workers' Occupational Diseases Act [820 ILCS 310] (WODA) who ~~desires~~shall desire to be approved as a self-insurer shall file with the Commission an Application for Approval ~~application for approval~~ on a form prescribed by the Commission and the most current 3 years' audited~~a current~~ financial ~~statements~~statement. *A private employer does not include group self-insured employers under Section 4(a) of the ~~Workers' Compensation Act~~ or Section 4(a) of WODA~~the Workers' Occupational Diseases Act~~ or the State of Illinois, any political subdivision of the ~~State~~state, unit of local government or school district, or any other public authorities or quasi-governmental bodies, including any subunits of the foregoing entities.* (Section 4a-2(c) of the Act) Any reference in this Part to workers' compensation insurance coverage shall encompass coverage under both the Act and WODA.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- B) *The application and current financial ~~statements~~statement shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer, if it ~~is~~be a corporation, or by all of the partners, if it ~~is~~abe copartnership, or by the owner if it ~~is~~be neither a copartnership nor a corporation. (Section 4(a)(1) of the Act)*
- C) In the event the employer does not have ~~a current~~ audited financial ~~statements~~statement, the employer must submit ~~a current~~ financial ~~statements that have~~statement which has been prepared by an outside accounting firm.
- D) Each controlled employer or subsidiary requesting approval as a self-insurer shall provide the current financial ~~statements~~statement of the parent ~~corporation or corporation~~corporation(s) or each of its controlling ~~person or persons~~person(s) designated by the Commission.
- i) A subsidiary means any entity in which another company, directly or indirectly, owns, controls or holds, with the power to vote a majority (more than 50 percent) of the outstanding voting securities of the company.
- ii) Controlled employer means a not-for-profit corporation with respect to which an individual or another entity has the right either to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing body of a not-for-profit corporation.
- iii) Controlling person means an individual or entity ~~that~~which has the right to elect or appoint, directly or indirectly, a majority of the directors, trustees or other governing body of a not-for-profit corporation, or has the right to approve or disapprove, directly or indirectly, the persons appointed as a majority of the directors, trustees or other governing

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

body of a not-for-profit corporation.

- E) *All initial applications and financial statements shall be submitted at least 60 days prior to the requested effective date of self-insurance.* (Section 4(a)(1) of the Act)
- F) All initial applications must include evidence of current workers' compensation~~Workers' Compensation~~ insurance coverage that~~which~~ shall be maintained until final approval as a self-insurer is granted.
- G) Each private employer applying for self-insurance shall indicate how it will service its self-insurance program. The employer shall provide adequate facilities for the investigation, administration and payment of claims or shall contract with a service company possessing thesueh personnel and facilities to provide thosesueh services. In determining whether facilities are adequate for the investigation, administration and payment of claims, the following shall be considered:
- i) whether there is personnel experienced in the adjudication of workers' compensation claims;
 - ii) whether there is a reporting system for workers' compensation claims;
 - iii) whether the reporting system is automated and the frequency of reports generated by the system; ~~and~~
 - iv) the response system to claims filing; and;
 - v) whether a current estimate of the expected total cost for each claim is established based on facts of each claim, medical information, and provisions of the Act. This estimation is not trended, based on discounted present value, or actuarially developed.
- H) If the employer has contracted with a service company for the administration of claims, a copy of the contract shall be submitted

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

with the initial application.

2) Renewal Application

- A) Each private self-insurer shall, upon notice from the Commission, file annually an application to continue the self-insurance privilege. The renewal application shall be on a form prescribed by the Commission and shall be accompanied by ~~thea-current~~ financial ~~statementsstatement as~~ described in subsection (a)(1)(C). The renewal application and ~~current~~ financial ~~statementsstatement~~ shall be signed and sworn to in accordance with subsection (a)(1)(B) ~~above~~. Each subsidiary or controlled employer requesting approval as a self-insurer shall provide the current financial statement of its parent ~~corporation or corporationseorporation(s)~~ or controlling ~~person or personsperson(s)~~ designated by the Commission.
- B) The self-insurer shall indicate any change in how it will service its self-insurance program. If the employer has contracted with a service company for the administration of claims, a copy of the current contract shall be submitted with the renewal application.

b) Application Fee

- 1) *Each private employer applying for self-insurance and each private self-insurer applying for renewal (continuation) of the self-insurance privilege shall pay a ~~nonrefundable~~~~non-refundable~~ application fee of \$500 ~~that-00~~ ~~which~~ shall be deposited upon receipt by the Commission into the Self-Insurers Administration Fund. (Section 4a-4(a) of the Act)*
- 2) ~~IfWhere~~ the applicant is a corporation, *an application fee shall be required of each corporation and each and every corporate subsidiary.* (Section 4a-4(a) of the Act) ~~IfWhere~~ the applicant is a not-for-profit corporation employer, an application fee shall be required for each and every controlling person and each and every employer applying for the self-insurance privilege or the renewal of the self-insurance privilege.
- 3) The application fee shall be paid by check or money order, ~~made~~ payable to the Self-Insurers Administration Fund.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

c) Review of Application

- 1) *Within 45 days ~~after~~ receipt of an initial application or an application to renew the self-insurance privilege, the Self-Insurer's Advisory Board (the Board) shall review or see to the review of the application and submit its recommendations for disposition to the chairman of the Commission (the Chairman). (Section 4(j) of the Act)*
- 2) The review of the application shall include, but not be limited to, consideration of the earned points on the financial ratios set forth [in this subsection \(c\)\(2\) below](#):

A) Earned Points on Financial Ratios

i) Current Assets to Current Liabilities

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points
1.1	:	1	=	1 points
1	:	1	=	0 points

(A negative ratio, one in which current assets are less than current liabilities, may be considered a reason to reject a new application).)

ii) Capital & Retained Earnings (Net of Treasury Stock) to Sales (Less Discounts)

20%	=	6 points
17.5%	=	5 points
13.5%	=	4 points
10%	=	3 points
8.5%	=	2 points
7%	=	1 points
5%	=	0 points

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

iii) Capital & Retained Earnings to Long Term Debt

2	:	1	=	6 points
1.75	:	1	=	5 points
1.6	:	1	=	4 points
1.4	:	1	=	3 points
1.25	:	1	=	2 points
1.1	:	1	=	1 points
1	:	1	=	0 points

- B) An employer who earns a total of 18 points in the ~~3~~three financial ratios in ~~subsections~~subsections (c)(2)(A)(~~i~~)-(iii) ~~above~~ in each year of the most current ~~3~~three years' audited financial statements and has been self-insured for a minimum of ~~3~~three consecutive years ~~may~~shall be deemed to have satisfied the Commission of its financial strength to meet its workers' compensation obligations without the necessity of furnishing security, indemnity or bond or making some other provision satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3)~~below~~.
- C) A total of 9 to 18 points earned in the ~~3~~three financial ratios in ~~subsections~~subsections (c)(2)(A)(~~i~~)-(iii) ~~above~~ shall create a rebuttable presumption that the employer's application should be approved conditional upon the furnishing of appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3) ~~below~~.
- D) The Board may recommend for approval applicants who earn less than 9 points in the financial ratios of ~~subsections~~subsections (c)(2)(A)(~~i~~)-(iii) if the employer's application and financial statement, together with appropriate security or other means satisfactory to the Commission for securing its workers' compensation obligations pursuant to subsection (c)(3)~~below~~, demonstrate the ability of the employer to meet its obligations under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

3) Security

~~When~~Where an applicant is required to furnish security, ~~indemnity or a bond~~ or provide some other means satisfactory to the Commission to guarantee payment of its workers' compensation obligation, the furnishing of such security, ~~indemnity or bond~~ or other provision shall be a condition precedent to the approval of the initial or renewal application for self-insurance. The Chairman ~~shall~~may also require that the applicant further secure payment of liabilities under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~ by obtaining a policy of excess ~~workers' compensation liability or catastrophe~~ insurance on such form as may be required by the Commission.

A) Security Determination

- i) The amount of the security shall be based upon, but not be limited to, such criteria as the employer's financial strength, industry, the amount of ~~aggregate~~ excess insurance, and demonstrated loss experience.
- ii) An employer's financial strength shall be determined by applying the financial ratio summarization in this subsection (c)(3)(A) below. The financial ratio summarization is based upon the total number of earned points as calculated by applying the financial ratios in subsection (c)(2)(A). A financial factor (percentage) is assigned to the financial ratio summarization. The applicable financial factor is applied in determining the amount of security in subsections (c)(3)(B) and (C) ~~below~~.

Financial Ratio Summarization

Financial Factor		Earned Points
16 - 18 points	=	35%
14 - 15 points	=	40%
12 - 13 points	=	60%
9 - 11 points	=	70%

B) Security/Loss Fund Determination

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- i) ~~When~~~~Where~~ the employer submits audited financial statements containing an unqualified opinion, the security requirement shall be determined by using the highest amount of security obtained after applying the following formulas:

Minimum security to be not less than \$200,000.

RESERVE FORMULA

Total outstanding loss reserves are multiplied by the applicable trending factor. In the event that an employer's losses are affected by growth or size of the entity, the reserves may~~losses will~~ be equalized. The following formula is then applied:

$$\begin{aligned} & \text{total outstanding loss reserves (loss fund) x} \\ & \text{applicable trending factor x applicable financial} \\ & \text{factor = security.} \end{aligned}$$

PAID LOSS FORMULA

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. However, in the event that an employer's losses are affected by growth or size of the entity, the paid losses may~~will~~ be equalized. The following formula is then applied:

$$\begin{aligned} & \text{average yearly paid loss (loss fund) x applicable} \\ & \text{trending factor x applicable financial factor =} \\ & \text{security.} \end{aligned}$$

- ii) If the employer submits financial statements that do not contain an unqualified opinion or~~which~~ are not audited, the security requirements shall be determined by using the highest amount of security obtained after applying the

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

following formulas:

Minimum security to be not less than \$200,000.

RESERVE FORMULA

total outstanding loss reserves (loss fund) x applicable trending factor x 125% = security.

PAID LOSS FORMULA

Paid losses for up to each of the last 5 years are multiplied by the applicable trending factors. The total of paid losses is divided by the number of years used to obtain the average yearly paid loss. The following formula is then applied:

average yearly paid loss (loss fund) x applicable trending factor x 125% = security

- iii) ~~Where the employer has aggregate excess insurance coverage, security may be based on the aggregate excess loss fund x applicable financial factor (percentage) assigned to the financial ratio summarization in subsection (c)(3)(A)(ii). If the employer submits financial statements which are not audited, the security shall be in an amount equal to the full aggregate excess loss fund multiplied by 125%.~~
- iii+v) If the employer self-administers its workers' compensation claims program, or if the claims administration contract with an outside administrator does not include service on a life of claim~~claims on an incurred~~ basis, a factor of 120% is applied to the formulas used in subsection~~subsections~~ (c)(3)(B)(i) and, (ii) ~~and (iii) above~~, to cover the contingent claims cost in the event of insolvency.
- iv+v) All trending factors used in this subsection (b)(3)(C) are adopted by resolution of the Board and are available from

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

the Board or the Commission upon request. Trending factors are determined by reviewing the rates of inflation for self-insurance, including claim payments, both medical and indemnity, and costs of claim administration. The trending factor shall be determined after consultation with a Fellow of the Casualty Actuarial Society.

- C) The security requirement for self-insurers, who upon initial or renewal application, earn less than 9 points after applying the financial ratios in subsection (c)(2)(A), shall be determined as a percentage of the loss fund size as follows:

Points Scored	Loss Fund Size	Percentage of Loss Fund
6 - 8.9	0 - 250,000	130
	250,001-500,000	120
	500,001-1,000,000	110
	1,000,001 +	100
3 - 5.9	0 - 250,000	150
	250,001-500,000	130
	500,001-1,000,000	120
	1,000,001 +	110
0 - 2.9	0 - 250,000	200
	250,001-500,000	175
	500,001-1,000,000	150
	1,000,001 +	130

If the percentage of loss fund referred to in this subsection (b)(3)(C) above is less than 125% and the employer has submitted financial statements that do not contain an unqualified opinion or are not audited~~unaudited financial statements~~, the percentage of loss fund used will be 125%. In addition, if the employer self-administers its workers' compensation claims program or if the claims administration contract with an outside administrator does not include service on a life of claim~~of claims on an incurred~~ basis, a factor of 120% is applied to cover the contingent claims cost in

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

the event of insolvency.

D) Acceptable Security Instruments

i) Surety Bond: Must be on a form prescribed by the Commission. No surety bond may be terminated unless the Chairman has received written notice of ~~thesueh~~ prospective termination at least 60 days prior to the termination date.

ii) Escrow Agreement: Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. ~~TheSueh~~ cash or bonds shall be deposited in escrow with any State or national bank or trust company having trust authority in the State of Illinois. (Section 4(b) of the Act) All escrow agreements shall be on a form provided by the Commission. Securities used to fund an escrow account shall have at all times a market value at least equal to the security requirement determined by the Chairman. (See subsection (c)(3)(A).)

iii) Letter of Credit: Must be issued by a financial institution acceptable to the Commission and be written in conformity with prescribed format. ~~Alternative and additional means satisfactory to the Commission for securing the payment of workers' compensation obligations include but shall not be limited to a letter of credit approved by the Chairman.~~ All letters of credit must be accompanied by a Self-Insurer's Agreement to Post on a form prescribed by the Commission.

G) ~~As an alternative to posting security, the Chairman will consider allowing an employer who qualifies for self insurance to provide an indemnification agreement which is unlimited in amount to the Self-Insurers Security Fund for payments and expenses the fund incurs as a result of the failure of the employer to make workers' compensation payments as they become due under the Acts. The indemnitor must be an insurance company, not related to or~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~affiliated with the self-insured employer, that is authorized to do business in this State. The Chairman reserves the right to make a determination as to the acceptability of the indemnitor and the content of the agreement.~~

4) Guarantee Agreement

A subsidiary or a controlled employer shall obtain a guarantee agreement executed by the parent company or controlling ~~person or persons~~ person(s) designated by the Commission. Pursuant to ~~the said~~ agreement, the parent company or the controlling ~~person or persons~~ person(s) shall guarantee that the obligations of the subsidiary or the controlled employer under the ~~Workers' Compensation Act/WODA and the Workers' Occupational Diseases Act~~ shall be paid. The guarantee agreement shall be submitted on a form prescribed by the Commission. Whenever a guarantor under such an agreement ceases to be a parent company; or controlling ~~person or persons~~ person(s) with respect to the subsidiary or controlled employer whose obligations it has guaranteed, the former parent company and subsidiary or controlling ~~person or persons~~ person(s) and controlled employer shall notify the Commission immediately. Notwithstanding any other provisions of this ~~Part~~ rule, if the Board determines that a controlled person or subsidiary is controlled by an alien controlling person or parent company, ~~or is a utility, or is unable or unwilling to provide a guarantee agreement,~~ the Chairman may, in his or her discretion, waive the requirement that the controlled employer or subsidiary provide a guarantee agreement; ~~if provided, that the controlled employer or subsidiary or utility furnishes shall furnish~~ to the Commission security in an amount to be determined by the same methods used when an unaudited financial statement has been provided ~~in accordance with~~ pursuant to subsection (c)(3)(B)(ii). "Alien controlling person" or "parent company" means a controlling person or parent company created or organized under the laws of a jurisdiction other than the United States of America or any political subdivision thereof.

d) Decision

Within 45 days after receipt of an initial application or application to renew (continue) the self-insurance privilege, the Board shall advise the Chairman of its recommendations regarding the disposition of that initial or renewal application. If the Chairman disagrees with any of the Board's recommendations, the Chairman shall, within 30 days after receipt of the Board's recommendations,

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

notify the Board of the reasons in support of the decision. The Chairman shall also promptly notify the employer of the decision within 15 days after receipt of the recommendation of the Board. (Section 4(j) of the Act)

1) Approval

- A) The Chairman shall notify the applicant in writing that it has been approved as a self-insurer. Approval may be conditioned upon the furnishing of appropriate and adequate security. The notice shall set forth the requirements to be met, including, but not limited to, the furnishing of security and the basis ~~for the security therefor~~, obtaining appropriate excess ~~workers' compensation liability or catastrophe~~ insurance, ~~and~~ submission of an appropriate claims administration and loss control program, ~~and payment of assessments as prescribed by the Commission (see Section 4a-7 of the Act).~~
- B) Within 60 days after receipt of the notice described in subsection (d)(1)(A), the conditionally approved employer shall comply with all of the requirements of conditional approval as stated in the notice. The Chairman shall then issue a certificate of approval as a self-insurer. The effective date of self-insurance shall be set forth in the certificate of approval.
- C) Failure of the conditionally approved employer to comply with all requirements of conditional approval within 60 days after receipt of the notice ~~in subsection (d)(1)(A)~~ or to file a request for reconsideration pursuant to subsection (f) ~~below~~ shall cause the Chairman to issue an ~~Order~~ denying the request for approval as a self-insurer. ~~The Order~~ ~~Such order~~ shall be subject to review ~~under~~ ~~pursuant to~~ subsection (h) ~~below~~. Nothing ~~in this subsection (d)(1) herein~~ shall bar the employer from reapplying for approval as a self-insurer.

2) Denial

- A) The Chairman shall notify the employer in writing that the employer's initial or renewal application and financial statement do not warrant approval of the self-insurance privilege. The notice

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

shall set forth the reasons why the employer's application for approval as a self-insurer should be denied.

- B) Failure of the employer to file a request for reconsideration pursuant to subsection (f) ~~below~~ shall cause the Chairman to issue an ~~Order~~order denying the request for approval as a self-insurer. ~~The Order~~Such order shall be subject to review ~~under~~pursuant to subsection (h) ~~below~~.
- C) When the Chairman denies an application for renewal of the self-insurance privilege, nothing ~~in this subsection (d)(2) herein~~ shall bar an employer from reapplying for approval as a self-insurer. ~~A~~Such re-application shall be considered an initial application and must qualify under subsection (c)(2).
- e) Additional Information
- 1) The Chairman may at any time, on his or her own initiative or at the request of the Board, require a self-insurer to file additional information related to the self insurers' ability to adequately secure payment of its financial obligations under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~. ~~That~~Such information shall include, but not be limited to information related to:
- A) the employer's financial condition;
 - B) the employer's ability to provide an adequate claims administration program;
 - C) the employer's loss control; or safety program; and
 - D) the employer's ability to provide adequate excess insurance coverage.
- 2) Upon review of the additional information, if the Chairman finds, after consultation with the Board, that the security furnished by the self-insurer should be adjusted or that the self-insurance privilege should be terminated, the Chairman shall notify the employer of any change in the security requirement or of his or her intent to terminate the self-insurance

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

privilege and the reasons ~~for termination therefor~~. The notice shall set forth a time and place of hearing on the matter, which shall be within 30 days after the date of the notice. The Chairman shall notify the employer of the decision in writing after the hearing date. ~~These~~Such decisions shall be subject to review ~~under~~pursuant to subsection (h) ~~below~~.

- 3) Failure of a self-insurer to comply with a request for additional information, without good cause, may cause the Chairman to initiate proceedings to terminate the self-insurance privilege.
- f) Petition for Reconsideration
- 1) Within 21 days after receipt of a notice of conditional approval or a notice that the employer's initial or renewal application does not warrant approval of the self-insurance privilege, the employer may file a petition for reconsideration of the Chairman's determination.
 - 2) The petition for reconsideration shall be made in writing and must state the reasons why the Chairman should reconsider the decision.
 - 3) The petition shall be accompanied by any documents ~~that~~which support the employer's position; and, if applicable, any information not previously considered. ~~The~~Such information may include, but is not limited to, evidence of an improving financial condition ~~that~~which was not available to the Board when the application was reviewed.
 - 4) Request for Hearing
 - A) The employer may request a hearing on the petition for reconsideration. The request for hearing must be filed with the request for reconsideration.
 - B) Upon the filing of a timely petition for reconsideration and request for hearing ~~as defined in subsection (f)(1) above~~, the Chairman shall issue a notice ~~that~~which sets forth a place and time of hearing, which shall be within 30 days after the date of the notice.
 - C) Hearings on the petition for reconsideration shall be conducted in accordance with subsection (g) ~~below~~.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- D) In the absence of a request for hearing, the Chairman may consider all matters at issue from the petition for reconsideration and accompanying documentation.
- 5) The Chairman shall issue an order notifying the employer of his or her final decision and the reasons for that decision~~therefor~~. The Order~~Such order~~ shall be subject to review under~~pursuant to~~ subsection (h)~~below~~.
- g) Conduct of Hearings
- 1) All hearings under this Section shall be conducted by the Chairman or a Commissioner designated by the Chairman.
- 2) All hearings shall be conducted in accordance with the requirements of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].
- 3) At the hearing, the employer shall have the right to respond and to call witnesses, cross-examine witnesses and present evidence.
- 4) *The Commission, or any member of the Commission~~hereof~~, shall have the power to administer oaths, to subpoena and examine witnesses, and issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issues of denial or termination of the self-insurance privilege or adjustment of the security. (Section 16 of the Act)~~[820 ILCS 305/16]~~*
- 5) The Illinois Rule~~common law rules~~ of Evidence~~evidence~~ and Article VIII of the Code of Civil Procedure [35 ILCS 5/Art. VIII] shall apply at the hearing.
- h) Appeal
All Orders~~orders~~ made by the Chairman under Section 4(j) of the Act shall be subject to review in the same manner and within the same time as provided by subsection (f) of Section 19~~(f)~~ of the Act for review of awards and decisions of the Commission. (Section 4(j) of the Act)
- i) Requirements Following Termination of the Self-Insurance Privilege

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Termination of the employer's self-insurance privilege does not terminate its obligation to provide the Commission with security. The Chairman shall approve release of the security when the Chairman determines, in his or her discretion, that the employer, as a private self-insurer, has no outstanding liability under the Act/WODA.
- 2) Former self-insurers shall be liable for any and all assessments until such time as they have discharged all obligations to pay compensation that arose during the self-insurance period. (Section 4a-7(b) of the Act)

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9100.60 Administration of Claims Against Securities, Indemnity or Bonds of Self Insurers

- a) Determination of Self-Insurer's Insolvent Condition
This Section applies whenever~~Whenever:~~
 - 1) Any self-insured employer who is unable to pay compensation under ~~Sections the Workers' Compensation Act [820 ILCS 305/7(f), 8(a), 8(b), 8(c), 8(d)(1), 8(d)(2), 8(e), 8(f), 19(a) and 19(g)] of the Act and Section 7(7) of WODA and Workers' Occupational Diseases Act [820 ILCS 310/7(7)]~~ has filed a written notice of such inability with the ~~Workers' Compensation~~ Commission; or
 - 2) Any person who has filed an Application for Adjustment of ~~Claim~~ claim against a self-insured employer gives written notice to the ~~Workers' Compensation~~ Commission ~~that~~which the Commission determines has raised a question with respect to that employer's ability to pay compensation under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~; or
 - 3) It is established that a court of competent jurisdiction has determined or is conducting proceedings to determine that a self-insured employer is unable to pay compensation under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act~~; or
 - 4) Any self-insurer has filed for, or is the subject of, any proceeding under

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

the federal Bankruptcy Reform ~~Act~~ of 1978 (11 USC 101 et seq.); or is a party, whether plaintiff ~~or~~ defendant, in any proceeding in which a receiver, liquidator, custodian, rehabilitator, sequestrator or trustee, or similar officer for ~~the~~ self-insurer or its property, has been appointed;

- b) The ~~Workers' Compensation~~-Commission, on its own motion or on the motion of any other party, shall hold a hearing to determine the ability ~~off~~ the self-insurer to pay compensation under the Act ~~and to determine~~ the existence and status of any ~~action described in subsection (a)~~ proceeding or proceedings referenced ~~above~~. *The Commission or any member of the Commission thereof shall have the power to administer oaths, to subpoena and examine witnesses, and to issue subpoena duces tecum requiring the production of such books, papers, records, or documents as may be evidence to determine such issues.* [820 ILCS 305/16]
- c) **Duty to Notify**
A self-insured employer ~~that~~ which is claiming it is unable to pay compensation under the ~~Workers' Compensation Act/WODA and that and Workers' Occupational Diseases Act, which~~ is a party to a bankruptcy proceeding described in subsection (a)(4)-~~above~~, or ~~that~~ which is the subject of an order set forth in subsection (a)(3) or (4)-~~above~~, shall file written notice of ~~that~~ such fact with the ~~Industrial~~ Commission within 10 days ~~after~~ the occurrence of such event.
- d) **Stay**
Upon notification of any of the ~~actions described in subsection (a), events in 50 Ill. Adm. Code 9100.60(a)(1)(4)~~ the ~~Workers' Compensation~~-Commission shall on its own motion, stay all proceedings before the ~~Workers' Compensation~~-Commission involving ~~that~~ said self-insured employer for no less than 60 days.
- e) **Transfer of Securities, Indemnity or Bond** ~~of Bond~~ to the Commission
- 1) The ~~Workers' Compensation~~-Commission will issue notification, within 20 days after a hearing, ~~of its determination~~ that the self-insured employer is unable to pay compensation due under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases Act, or~~ has filed for, or is the subject of, any bankruptcy proceeding (~~see set forth in~~ subsection (a)(4)-~~above~~, or is the subject of an order under subsection (a)(3) or (4). ~~Any above, any~~ holder of any securities, indemnity or bonds furnished by such employer guaranteeing the payment of compensation under the ~~Workers' Compensation Act/WODA and Workers' Occupational Diseases~~

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

~~Act,~~ shall notify the ~~Workers' Compensation~~ Commission in writing whether ~~or not~~ it is willing ~~to~~ and able to administer ~~thosesuch~~ funds. Unless the holder has provided written notification to the Commission within ~~thesuch~~ 20 ~~daydays~~ period that it is able and willing to administer the funds, such holder shall immediately deliver all such securities, indemnity or bonds to the ~~Workers' Compensation~~ Commission; otherwise, the ~~Workers' Compensation~~ Commission shall order ~~thesuch~~ delivery; or refer the matter to the Attorney General's Office for litigation to collect or recover all such securities, indemnity or bonds.

- 2) Upon receipt of the securities, indemnity or bonds, the Commission shall deposit the proceeds of ~~the~~ said securities, indemnity or bonds with any state or national bank or trust company having trust authority in the State of Illinois ~~thatwhich~~ has been ranked in the upper 10% in the Annual Report submitted by the State of Illinois Director of the Division of Banking of the Department of Financial and Professional Regulation ~~Commissioner of Banks and Trust Companies~~ and ~~thatwhich~~ has the lowest fees for administration of escrow funds. Deposits in ~~thesaid~~ bank or trust company shall be in the form of negotiable United States government bonds ~~orof~~ negotiable general obligation bonds of the State of Illinois. The ~~said~~ bank or trust company shall administer the funds and, upon the order of the Commission, shall distribute the funds. The administration fees for ~~thesaid~~ bank or trust company shall be payable only from the interest accrued on ~~thesaid~~ proceeds from time of deposit.
- f) Filing Periods for Claims Against Securities, Indemnity or Bonds ~~bonds~~
- 1) If the bankruptcy proceedings ~~describedset forth~~ in subsection (a)(4) ~~above~~ have been commenced or the Order affecting an entity ~~order~~ under subsection (a)(3) or (4) ~~wasabove has been~~ entered prior to September 17, 1984, any claim against the securities, indemnity or bonds with respect to a case for which an Application for Adjustment of Claim has not already been filed pursuant to 50 Ill. Adm. Code 9020.20 must ~~have beenbe~~ filed on or before September 17, 1984.
 - 2) If the bankruptcy proceedings ~~describedset forth~~ in subsection (a)(4) ~~above~~ have been commenced or the Order affecting an entity ~~order~~ under subsection (a)(3) or (4) ~~wasabove has been~~ entered on or after September 17, 1984, any claim with respect to a case for which an Application for

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Adjustment of Claim has not already been filed pursuant to 50 Ill. Adm. Code 9020.20 must be filed on or before 12 months after the date of the commencement of such proceedings or the entry of ~~the Order~~such order.

- g) Distribution of Securities, Indemnity or Bonds
- 1) Upon determination by the Commission of the extent of the Self-Insured's ~~liability~~Liability under the Act in all cases for which Applications for Adjustment of Claims or ~~Settlement Contract Petitions~~settlement contract petitions have been filed or for which claims are pending against the securities, indemnity or bonds, the Commission shall hold a hearing to determine the proceeds of the securities, indemnity or bonds. Notice of this hearing will be by mail at least 15 business days prior to the hearing and shall be given to all parties, including the holders of the securities, indemnity or bonds.
 - 2) If, after a hearing pursuant to subsection (g)(1)~~above~~, the Commission has determined that the proceeds of the securities, indemnity or bonds are sufficient to pay all claim against such assets in full, it shall order the holder or the ~~depository~~depository bank or trust company to make payment to the parties entitled ~~to the assets~~thereto who have perfected claims against ~~those~~such assets, in accordance with the terms of awards or settlements ~~which~~ the Commission has entered or approved.
 - 3) If the Commission determines that the proceeds of securities, indemnity or bonds are not sufficient to pay all claims in full, then such claims ~~that~~which are for compensation for death and for temporary and total permanent disability and claims for medical expenses shall, as a class, be payable prior to payment of any other claims. ~~If, and if~~ the proceeds ~~of securities, indemnity or bonds~~ are not sufficient to pay all claims within ~~this~~said class in full, ~~then~~ payment of ~~those~~such claims will be pro rated on the basis of the amount of each claim in proportion to the amount of the securities, indemnity and bonds available for distribution.
 - 4) After all claims within the class have been paid in full, if any amount from the proceeds of securities, indemnity or bonds remains for distribution, ~~then~~ payments of all other claims will be pro rated on the basis of the amount of each such claim in proportion to the amount of the remainder of the securities, indemnity or bonds.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 5) If, after all such claims are paid in full, ~~there exists~~ any surplus securities, indemnity or bond amounts remain, the Commission shall order ~~those said~~ amounts returned to the employer, bond company, or other party with legal right to ~~thosesuch~~ monies.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9100.85 Administration of Claims Against the Injured Workers' Benefit Fund**a) Reimbursement**

- 1) The Commission shall have the right to obtain reimbursement for any compensation obligations paid by the Injured Workers' Benefit Fund (IWBF) from any individual employer/owner, corporate officer, director of a corporate employer, partner of an employer partnership, or member of an employer limited liability company. (Section 4(d) of the Act)
- 2) If an injured employee or his or her personal representative receives payment from the IWBF, the State of Illinois has the same rights under Section 5(b) of the Act/WODA that the employer who failed to pay the benefits due to the injured employee would have had if the employer had paid those benefits. Any moneys recovered by the State as a result of the State's exercise of its rights under those statutes shall be deposited into the IWBF for the payment of claims. (Section 4(d) of the Act)

b) Administration for IWBF Payout

To qualify for payment from the IWBF, a claimant must have filed an Application for Adjustment of Claim against the employer (see 50 Ill. Adm. Code 9020.20) and must have named the State Treasurer as ex-officio custodian of the IWBF as a party respondent, or must have amended the Application of Adjustment of Claim to do so.

(Source: Added at 40 Ill. Reg. _____, effective _____)

Section 9100.90 Insurance Coverage: Compliance

- a) Employers to Insure Payment of Compensation

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Any employer ~~subject to who shall come within the provisions of~~ Section 3 of the ~~Workers' Compensation Act (the Act) [820 ILCS 305/3]~~ or any employer who ~~elects shall elect~~ to provide and pay the compensation provided for in the ~~Workers' Compensation Act/WODA and the Workers' Occupational Diseases Act [820 ILCS 310]~~ shall insure payment of such compensation ~~as required by pursuant to~~ Section 4(a) of the Act/~~WODA and Section 4(a) of the Workers' Occupational Diseases Act~~ by obtaining approval ~~from by~~ the ~~Industrial~~ Commission to operate as a self-insurer or by insuring its entire liability to pay such compensation in some insurance carrier authorized, licensed, or permitted to do such insurance business in Illinois.

- b) Failure to Insure Payment of Compensation Liability;— Penalty
- 1) *The Commission may assess a civil penalty of up to ~~five hundred dollars (\$500.00)~~ per day for each day of:*
 - A) *the knowing and ~~willful/wilful~~ failure or refusal, after December 18, 1989, of an employer to comply with any of the provisions of Section 4(a) of the ~~Act~~; or*
 - B) *failure or refusal, after December 18, 1989, of an employer, service or adjustment company, or an insurance carrier, to comply with any ~~Order/order~~ of the ~~Workers' Compensation~~ Commission pursuant to Section 4(c) of the Act/~~WODA and Section 4(c) of the Workers' Occupational Disease Act~~ disqualifying it to operate as a self-insurer and requiring it to insure its liability with an insurance carrier. ~~(Section 4(d) of the Act and Section 4 of WODA)[820 ILCS 305/4(d) and 820 ILCS 310/4]~~*
 - C) Penalties may include, but are not limited to, administrative costs and savings the Respondent realized by not paying the premiums for the insurance.
 - 2) Penalties may be assessed by the Commission ~~may be assessed~~ after reasonable notice and hearing in accordance with subsection (d).
- c) Notice of Non-Compliance
- 1) The ~~Workers' Compensation~~ Commission shall give Notice of Non-

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Compliance to the employer at the employer's last known address or to the employer's representative ~~thereof~~. The notice shall be accompanied by a certificate of service by the ~~Workers' Compensation~~ Commission on the employer, setting forth the time and manner of service.

- 2) The Notice of Non-Compliance shall be a written statement setting forth, but not limited to, the following information:
 - A) the name and address of the employer;
 - B) a statement of the Section of the statute alleged to be violated, the periods of non-compliance and the penalty ~~that~~which may be imposed;
 - C) a statement that the employer must submit evidence of compliance or otherwise respond within ~~thirty (30) days~~ after of the date of receipt of the notice. Examples of evidence of compliance are:
 - i) a copy of the policy information page ~~as~~ required to be filed under Section 9100.20 ~~that~~which indicates coverage for the periods of alleged non-compliance;
 - ii) a self-insurance certificate of approval covering the periods of alleged non-compliance;
 - iii) a copy of a pooling agreement showing membership in a licensed group workers' compensation pool authorized by the Illinois Department of Insurance during the alleged periods of non-compliance;
 - iv) any service company, company or employer that loans employees or supplies employees and/or workers' compensation benefits must provide, for each client, the company's name, FEIN, address and the location or locations and character of the business operation or operations. The information provided must be to the Commission's satisfaction.
 - D) a statement that failure to respond to the Notice of Non-

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Compliance within the prescribed time period shall cause the Commission to set this matter for hearing in accordance with subsection (d).

- 3) Informal Conference
 - A) When a Notice of Non-Compliance has been sent, the Commission shall, at the request of the employer or its attorney, or may on its own initiative, schedule the matter for an informal conference at which a designated representative of the Commission shall meet with the employer in an attempt to resolve the matter.
 - B) A request by the employer or its attorney for an informal conference must be received by the Commission within ~~fifteen~~ ~~(15)~~ days ~~after~~ the receipt of the Notice of Non-Compliance.
 - C) The Commission shall send written notice to the employer or its attorney at least ~~seven~~ ~~(7)~~ days prior to the scheduled conference.
 - D) The conference shall be held at a site designated by the Commission.
 - E) If the matter cannot be resolved at the conference, the Commission shall set the matter for hearing in accordance with subsection (d).
- d) Hearings
 - 1) Notice of Hearing; Locations
 - A) A matter under this Section is commenced by the ~~Workers' Compensation~~ Commission by service of a Notice of Hearing upon the employer at least ~~thirty~~ ~~(30)~~ days prior to the time fixed for hearing. ~~If service cannot be made by personal service,~~ ~~service~~ ~~Service~~ of the Notice shall be by United States registered or certified mail addressed to the employer at the last known address or to the ~~employer's~~ representative ~~thereof~~.
 - B) The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- i) the name and address of the employer;
 - ii) the time, date and place of hearing;
 - iii) the name of the Commissioner;
 - iv) a statement of the ~~Section~~section of the statute alleged to be violated, periods of non-compliance and the penalty ~~that~~which may be imposed; and
 - v) a statement that failure to appear at the hearing, ~~if~~where no continuance has been obtained prior to the hearing, shall constitute a default and shall result in a finding that there has been a knowing and ~~willful~~ ~~willful~~ failure of the employer to insure his ~~or her~~ liability to pay compensation in accordance with Section 4(a) of the Act or to comply with an ~~Order~~order of the Commission under Section 4(c) and an assessment of penalties under Section 4(d) ~~of the Act.~~
- C) The hearing shall be set at a site designated by the assigned Commissioner.
- 2) Assignment
- A) In all cases ~~in which~~where the employer is principally located in Cook County, a matter to be scheduled for hearing under this Section shall be randomly assigned to a Commissioner.
 - B) In all other cases, a matter to be scheduled for hearing under this Section shall be assigned to the Commissioner who serves that territory within which the employer is principally located.
- 3) Conduct of Hearings
- A) At the hearing, a representative of the Commission shall have the opportunity to introduce evidence, to call and examine witnesses, and to cross-examine witnesses. The employer or its attorney shall

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

be given the opportunity to show that there has been compliance with Section 4(a) of the Act or an ~~Order~~order of the Commission under Section 4(c) or show cause why compliance has not been accomplished. The employer or its attorney shall have the opportunity to introduce evidence, to call and examine witnesses, and to cross-examine witnesses. The representative of the Commission shall have the right of rebuttal.

- B) *The Commission or any member of the Commission~~hereof~~ shall have the power to administer oaths, to subpoena and examine witnesses, and to issue subpoena duces tecum requiring the production of such books, papers, records or documents as may be evidence to determine the issue of non-compliance. (Section 16 of the Act.)*
- C) The Illinois Rules of Evidence~~common law rules of evidence~~ and Article VIII of the Code of Civil Procedure [735 ILCS 5/Art. VIII] shall apply except to the extent they conflict with the Workers' Compensation Act, the Workers' Occupational Diseases Act, or the Rules Governing Practice Before the Workers' Compensation Commission (50 Ill. Adm. Code: Chapter VI).
- D) A certification from an employee of the National Council on Compensation Insurance stating that no policy information page has been filed in accordance with Section 9100.20 shall be deemed prima facie evidence of that fact.
- E) A certification from an employee of the Commission stating that an employer has not been approved as a self-insurer shall be deemed prima facie evidence of that fact.
- e) Decision
The Commission, after the hearing is concluded, shall issue a Decision that includes~~decision which shall include~~:
- 1) the findings of the Commission;
 - 2) when~~where~~ applicable, the dates of failure to insure and the amount of penalty assessed for each day;

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 3) the payment procedures ~~as~~ provided in subsection (f); and
 - 4) a statement of the conditions for a judicial review of the Commission's ~~Decision decision~~ in accordance with the requirements of 50 Ill. Adm. Code 9060.
- f) **Payment Procedures**
~~When~~Where the Commission assesses a penalty against an employer in accordance with Section 4(d) of the ~~Workers' Compensation Act/WODA or Workers' Occupational Diseases Act~~, payment shall be made according to the following procedure:
- 1) payment of the penalty shall be made by certified check or money order made payable to the ~~State of Illinois~~ Workers' Compensation Commission;
 - 2) payment shall be mailed or presented within ~~thirty (30)~~ days ~~after of~~ the final ~~Order order~~ of the Commission or the order of the court on review after final adjudication to:

Workers' Compensation Commission
Insurance Compliance Division~~Fiscal Office~~
100 West Randolph Street
Suite 8-328
Chicago, Illinois 60601
~~1-312/814-6625~~
 - 3) or as otherwise directed by www.iwcc.il.gov.
- g) **Work-Stop Order**
- 1) Hearings, Notice, Locations
 - A) A matter under this Section is commenced by the Commission's Insurance Compliance Division by service of a Notice of Work-Stop Hearing upon an employer at least 5 days prior to the time fixed for hearing.
 - B) If service cannot be made by personal service, by United States

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

registered or certified mail addressed to the employer at the last known address or to the employer's representative, service may be effectuated by posting a copy of the Notice of Work-Stop Hearing at the entrance of the employer's place or places of employment or in a prominent place at the job site or sites.

C) The Notice of Work-Stop Hearing shall set forth the following information:

i) The name and address of the employer;

ii) The time, date and place of hearing;

iii) A statement of the Section of the statute alleged to be violated, periods of non-compliance, and that a Work-Stop Order may be issued;

iv) A statement that failure to appear at the hearing shall constitute a default and shall result in a finding that:

- there has been a knowing failure of the employer to provide coverage required by Section 4(a) of the Act;
- the failure to insure is deemed an immediate serious danger to public health, safety and welfare; and
- a Work-Stop Order shall be issued by the Commission hearing panel at the close of evidence.

2) Work-Stop Order

If a panel of 3 Commissioners (one member representing the employing class, one member representing the employee class, and one member representing neither the employing or employee class) finds that an employer's knowing failure to provide workers' compensation insurance coverage required by Section 4(a) of the Act is deemed an immediate serious danger to public health, safety and welfare, the Commission shall issue a Work-Stop Order on the employer requiring the cessation of all business operations at the employer's place or places of employment or job

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

site or sites.

3) Assignments

A) A matter to be scheduled for a Work-Stop Order hearing in Chicago shall be randomly assigned to any available Commissioner.

B) A matter to be heard in Springfield shall be scheduled to a hearing panel at its next available review date.

C) The hearing shall be held within 7 days after the date of the Notice of Work-Stop Hearing.

4) Hearings under this subsection (g) shall be conducted in accordance with subsection (d)(3).

5) Decision

A panel described in subsection (g)(2) shall issue a decision at the close of the hearing that shall include:

A) The findings of the Commission;

B) The dates of failure to insure;

C) A Work-Stop Order on the employer requiring the cessation of all business operations at the employer's place or places of employment or job site or sites where business operation shall cease and the date of issuance;

D) A statement of the conditions for a judicial review of the Commission's decision in accordance with the requirements of 50 Ill. Adm. Code 9060.

6) Issuance and Posting of Work-Stop Order

A) A Work-Stop Order shall take effect immediately upon issuance by the Commission.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

B) Posting of Work-Stop Order

- i) Upon taking effect, the Commission shall cause a Notice of Work-Stop Order to be posted at the employer's place or places of employment or job site or sites reflecting the decision of the Commission.
- ii) The Notice of Work-Stop Order shall be in the form of a sign of sufficient size and visibility to serve as notice to the public or persons at or entering the employer's place or places of employment or job site or sites that a Work-Stop Order is in effect. The notice shall be affixed to the employer's place or places of employment or job site or sites in any manner possible, including, but not limited to, windows, doors and fencing.
- iii) Upon request by the Commission, any law enforcement agency in the State shall render assistance to the Commission to carry out the provision of Section 4(d) of the Act, including, but not limited to, preventing any employee from remaining at the employer's place of employment after a Work-Stop Order has taken effect.

7) Release of Work-Stop Order

- A) A Work-Stop Order shall remain in effect until the Commission issues a Release of the Work-Stop Order upon a finding that the employer is in compliance with the workers' compensation insurance coverage requirements of Section 4(a) of the Act. An employer may request a Release of the Work-Stop Order by demonstrating compliance by submitting a copy of the policy information page issued by an insurance carrier (see Section 9100.20) and proof of payment of premium for at least 90 days. The documentation provided must be to the Commission's satisfaction.
- B) Release of a Work-Stop Order does not relieve the employer and/or officer or officers of any fines, penalties or decision that may be assessed for prior non-compliance period or periods.

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 40 Ill. Reg. _____, effective _____)

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Miscellaneous
- 2) Code Citation: 50 Ill. Adm. Code 9110
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
9110.10	Amendment
9110.20	Repealed
9110.40	Amendment
9110.60	Amendment
- 4) Statutory Authority: Implementing and authorized by the Worker's Compensation Act and Occupational Diseases Act [820 ILCS 305 and 820 ILCS 310]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are designed to allow the Workers' Compensation Commission (Commission) to operate in a more effective and efficient manner. The proposed amendment to Section 9110.10 now requires a vocational rehabilitation report when the injured worker has been totally incapacitated from work for 365 days, instead of 120 days. The proposed amendment also eliminates the condition that an injured worker remain totally incapacitated for work to trigger the employer's obligation to prepare a written review every 4 months regarding the appropriateness of the vocational plan. These proposed changes also make it optional to use a Commission prepared Vocational Rehabilitation form. The proposed amendment repeals Section 9110.20. The proposed amendment to Section 9110.40 provides guidance as to how Petitions to Suspend Compensation are docketed and set for hearing. Section 9110.60 has been amended to conform to Section 15(a) of the Act. The Commission is now only required to maintain the Commission Handbook on its website.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking neither creates nor expands any State mandate on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Ronald Rascia
General Counsel
Illinois Workers' Compensation Commission
100 W. Randolph, Suite 8-200
Chicago IL 60601

312/814-4932
e-mail: IWCC.Rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: It is anticipated that the proposed changes will have a minimum impact on the regulated industry.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the Commission did not anticipate the need for this rulemaking within that timeframe.

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

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER VI: WORKERS' COMPENSATION COMMISSION

PART 9110

MISCELLANEOUS

Section	
9110.5	Definitions
9110.10	Vocational Rehabilitation
9110.20	Petitions under Sections 19(h), 8(a), and 7(a) of the Act (Repealed)
9110.30	Commission Meetings: Minutes
9110.40	Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment
9110.50	Petitions under Section 19(o) of the Act
9110.60	Distribution of Commission Handbook
9110.70	Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care
9110.80	Rate Adjustment Fund and Second Injury Fund Contributions: Compliance
9110.90	Illinois Workers' Compensation Commission Medical Fee Schedule

AUTHORITY: Implementing and authorized by the Workers' Compensation Act [820 ILCS 305].

SOURCE: Filed and effective March 1, 1977; amended at 5 Ill. Reg. 5533, effective May 12, 1981; amended at 6 Ill. Reg. 8040, effective July 1, 1982; codified at 7 Ill. Reg. 2352; emergency amendment at 14 Ill. Reg. 4929, effective March 9, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13161, effective August 1, 1990; emergency amendment at 30 Ill. Reg. 1912, effective February 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11743, effective June 22, 2006; amended at 33 Ill. Reg. 2850, effective February 1, 2009; emergency amendment at 34 Ill. Reg. 10222, effective July 6, 2010, for a maximum of 150 days; emergency rule repealed by emergency amendment at 34 Ill. Reg. 17471, effective October 28, 2010, for the remainder of the 150 days; amended at 36 Ill. Reg. 16349, effective November 5, 2012; amended at 36 Ill. Reg. 17108, effective November 20, 2012; recodified from 50 Ill. Adm. Code 7110 to 50 Ill. Adm. Code 9110 at 39 Ill. Reg. 9616; amended at 40 Ill. Reg. _____, effective _____.

Section 9110.10 Vocational Rehabilitation

WORKERS' COMPENSATION COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- a) ~~An employer's vocational rehabilitation counselor~~~~The employer or his representative~~, in consultation with the injured employee and, if represented, with his or her representative, shall prepare a written assessment of the course of medical care, and, if appropriate, rehabilitation required to return the injured worker to employment when it can be reasonably determined that the injured worker will, as a result of the injury, be unable to resume the regular duties in which ~~he or she was~~ engaged at the time of injury. ~~When, or when~~ the period of total incapacity for work exceeds ~~365~~~~120 continuous~~ days, ~~the written assessment required by this subsection shall likewise be prepared~~~~whichever first occurs~~.
- b) The assessment shall address the necessity for a plan or program ~~that, which~~ may include medical and vocational evaluation, modified or limited duty, and/or retraining, as necessary.
- c) At least every 4 months thereafter, ~~provided the injured employee was and has remained totally incapacitated for work~~, or until the matter is terminated by ~~Order~~~~order~~ or ~~Award~~~~award~~ of the Commission or by written agreement of the parties approved by the Commission, the employer, or his or her representative, in consultation with the employee, and if represented, with his or her representative, shall:
- 1) if the most recent previous assessment concluded that no plan or program was then necessary, prepare a written review of the continued appropriateness of that conclusion; or
 - 2) if a plan or program had been developed, prepare a written review of the continued appropriateness of that plan or program, and make in writing any necessary modifications.
- d) A copy of each written assessment, plan or program, review and modification shall be provided to the employee and/or his or her representative at the time of preparation, and an additional copy shall be retained in the file of the employer and, if insured, in the file of the insurance carrier. ~~Copies shall, to~~ be made available for review by the Commission, on its request, until the matter is terminated by ~~Order~~~~order~~ or ~~Award~~~~award~~ of the Commission or by written agreement of the parties approved by the Commission.
- e) The rehabilitation plan ~~may~~~~shall~~ be prepared on a form furnished by the Commission.

WORKERS' COMPENSATION COMMISSION
NOTICE OF PROPOSED AMENDMENTS

f) Nothing in this Section shall abridge the rights of the parties.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9110.20 Petitions under Sections 19(h), 8(a), and 7(a) of the Act (Repealed)

~~Petitions filed under Section 19(h) of the Act, alleging change in disability, or Section 8(a), asking reimbursement of medical expenses, or Section 7(a), seeking modification of a death award, shall be docketed and assigned for hearing in the same manner as a petition for review, except that where practical the cause shall be assigned to the original hearing commissioner.~~

(Source: Repealed at 40 Ill. Reg. _____, effective _____)

Section 9110.40 Petition to Suspend Compensation for Failure to Submit to Proper Medical Treatment

Petitions to suspend compensation, as provided in Section 19(d) of the Act, shall be docketed and set for hearing in the same manner as Petitions filed pursuant to Section 19(b), as set forth in 50 Ill. Adm. Code 9020.80.~~as soon as possible, except that, if an emergency is alleged in the petition, it shall immediately be set for hearing.~~ All ~~Petitions~~petitions shall give the nature of the injury and the treatment required. Reasonable notice of the time and place of hearing shall be served upon the injured party, if unrepresented, either personally or by registered mail.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 9110.60 ~~Distribution of~~ Commission Handbook

~~The~~An employer, upon receiving notice of an accident reportable pursuant to Section 6(b) of the Act, shall deliver the Commission Handbook shall be maintained on the Commission website pursuant to Section 15a of the Act.~~to the injured employee, or determine that the employee has the handbook. An employer, individually or by his or her agent, service company or insurance carrier shall indicate, upon filing a first report of injury as provided in Section 6(b) of the Act, that a copy of the handbook has been delivered to the injured employee.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Underground Storage Tanks
- 2) Code Citation: 35 Ill. Adm. Code 731
- 3)

<u>Section</u> :	<u>Adopted Actions</u> :
730.110	Amendment
730.112	Amendment
730.113	Amendment
730.122	Repealed
730.161	Amendment
730.162	Amendment
730.163	Amendment
730.164	Amendment
730.165	Amendment
731.166	Amendment
731.167	Amendment
731.250	New Section
731.251	New Section
731.Appendix A	Repealed
731.Appendix C	Repealed
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27.
- 5) Effective Date of Rules: July 13, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) Statement of Availability: The adopted rules, a copy of the Board's opinion and order adopted July 7, 2016 in docket R16-16, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 6991; May 6, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 11) Differences between Proposal and Final Version: A table that appears in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R16-16 summarizes the differences between the amendments adopted in the July 7, 2016 opinion and order and those proposed by the Board in an opinion and order dated April 21, 2016, in docket R16-16. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments. The differences are limited to minor corrections and clarification that are not intended to have a substantive effect on the amendments. The changes are intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the May 6, 2016 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16, as indicated in item 11 above. See the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in the Identical-in-Substance Rulemaking Addendum (Final) itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The following briefly describes the subjects and issues involved in the docket R16-16 rulemaking of which the amendments to Part 731 are a single segment. A comprehensive description is contained in the Board's opinion

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

and order of July 7, 2016, adopting amendments in docket R16-16, which opinion and order is available from the address below.

This proceeding updates the Illinois underground storage tank (UST) corrective action rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the Federal Register during the update period July 1, 2015 through December 31, 2015.

The following briefly summarizes the single federal action in the update period:

July 15, 2015 (at 80 Fed. Reg. 41566)

USEPA instituted new requirements relating to subject matters outside the scope of the Board's UST mandate. These include the new requirements for secondary containment for tanks and piping, operator training, periodic operation and maintenance, release prevention and detection technologies, and updated codes of practice. New requirements that address previously deferred tank systems (field-constructed tanks, airport hydrant fuel distribution systems, and USTs storing fuel solely for emergency power generators) fall within the scope of current Board regulations to the extent that the requirements involve corrective action requirements. USEPA further made editorial and corrective amendments to existing rules.

The Board has included a limited number of corrections and clarifying amendments that are not directly derived from the instant federal amendments. Principally, the Board has repealed notification requirements retained in a previous rulemaking.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Final)" that the Board added to docket R16-16 that list the revisions to the text of the corresponding federal rule, the amendments that are not based on current federal amendments, and the revisions to the text since the Board's April 21, 2016 proposal for public comment. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the Identical-in-Substance Rulemaking Addendum (Final) in docket R16-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

- 16) Information and questions regarding these adopted rules shall be directed to: Please reference consolidated docket R16-16 and direct inquiries to the following person:

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

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

Request copies of the Board's opinion and order of July 7, 2016 at 312/814-3620.
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND
UNDERGROUND STORAGE TANK PROGRAMS

PART 731

UNDERGROUND STORAGE TANKS

SUBPART A: PROGRAM SCOPE ~~AND INTERIM PROHIBITION~~

Section

- 731.101 Definitions and exemptions (Repealed)
731.102 Interim prohibitions (Repealed)
731.103 Notification Requirements (Repealed)
731.110 Applicability
731.111 Interim Prohibition for Deferred Systems (Repealed)
731.112 Definitions
731.113 ~~Incorporation~~Incorporations by Reference
731.114 Implementing Agency (Repealed)

SUBPART B: UST SYSTEMS: DESIGN, CONSTRUCTION,
INSTALLATION AND NOTIFICATION

Section

- 731.120 Performance Standards for New Systems (Repealed)
731.121 Upgrading of Existing Systems (Repealed)
731.122 Notification Requirements (Repealed)

SUBPART C: GENERAL OPERATING REQUIREMENTS

Section

- 731.130 Spill and Overfill Control (Repealed)
731.131 Operation and Maintenance of Corrosion Protection (Repealed)
731.132 Compatibility (Repealed)
731.133 Repairs Allowed (Repealed)
731.134 Reporting and Recordkeeping (Repealed)

SUBPART D: RELEASE DETECTION

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

- 731.140 General Requirements for all Systems (Repealed)
- 731.141 Petroleum Systems (Repealed)
- 731.142 Hazardous Substance Systems (Repealed)
- 731.143 Tanks (Repealed)
- 731.144 Piping (Repealed)
- 731.145 Recordkeeping (Repealed)

SUBPART E: RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

Section

- 731.150 Reporting of Suspected Releases (Repealed)
- 731.151 Investigation due to Off-site Impacts (Repealed)
- 731.152 Release Investigation and Confirmation (Repealed)
- 731.153 Reporting and Cleanup of Spills and Overfills (Repealed)

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section

- 731.160 General
- 731.161 Initial Response
- 731.162 Initial Abatement Measures and Site Check
- 731.163 Initial Site Characterization
- 731.164 Free Product Removal
- 731.165 Investigations for Soil and Groundwater Cleanup
- 731.166 Corrective Action Plan
- 731.167 Public Participation

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section

- 731.170 Temporary Closure (Repealed)
- 731.171 Permanent Closure and Changes-in-Service (Repealed)
- 731.172 Assessing Site at Closure or Change-in-Service (Repealed)
- 731.173 Previously Closed Systems (Repealed)
- 731.174 Closure Records (Repealed)

SUBPART H: FINANCIAL RESPONSIBILITY

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section

731.190	Applicability (Repealed)
731.191	Compliance Dates (Repealed)
731.192	Definitions (Repealed)
731.193	Amount and Scope of Required Financial Responsibility (Repealed)
731.194	Allowable Mechanisms and Combinations (Repealed)
731.195	Financial Test of Self-insurance (Repealed)
731.196	Guarantee (Repealed)
731.197	Insurance or Risk Retention Group Coverage (Repealed)
731.198	Surety Bond (Repealed)
731.199	Letter of Credit (Repealed)
731.200	UST State Fund (Repealed)
731.202	Trust Fund (Repealed)
731.203	Standby Trust Fund (Repealed)
731.204	Substitution of Mechanisms (Repealed)
731.205	Cancellation or Nonrenewal by Provider (Repealed)
731.206	Reporting (Repealed)
731.207	Recordkeeping (Repealed)
731.208	Drawing on Financial Assurance (Repealed)
731.209	Release from Financial Assurance Requirement (Repealed)
731.210	Bankruptcy or other Incapacity (Repealed)
731.211	Replenishment (Repealed)
731.900	Incorporation by reference (Repealed)
731.901	Compliance Date (Repealed)

SUBPART K: UST SYSTEMS WITH FIELD-CONSTRUCTED TANKS
AND AIRPORT HYDRANT FUEL DISTRIBUTION SYSTEMS

Section

<u>731.250</u>	<u>Definitions</u>
<u>731.251</u>	<u>General Requirements</u>

731.APPENDIX A	Notification Form (<u>Repealed</u>)
731.APPENDIX C	Statement for Shipping Tickets and Invoices (<u>Repealed</u>)

AUTHORITY: Implementing and authorized by Sections 22.4(d), 22.13(d), and 27 of the Environmental Protection Act [415 ILCS 5/22.4(d), 22.13(d), and 27].

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted in R86-1 at 10 Ill. Reg. 14175, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6220, effective March 24, 1987; amended in R88-27 at 13 Ill. Reg. 9519, effective June 12, 1989; amended in R89-4 at 13 Ill. Reg. 15010, effective September 12, 1989; amended in R89-10 at 14 Ill. Reg. 5797, effective April 10, 1990; amended in R89-19 at 14 Ill. Reg. 9454, effective June 4, 1990; amended in R90-3 at 14 Ill. Reg. 11964, effective July 10, 1990; amended in R90-12 at 15 Ill. Reg. 6527, effective April 22, 1991; amended in R91-2 at 15 Ill. Reg. 13800, effective September 10, 1991; amended in R91-14 at 16 Ill. Reg. 7407, effective April 24, 1992; amended in R11-22 at 36 Ill. Reg. 4886, effective March 19, 2012; amended in R16-16 at 40 Ill. Reg. 10312, effective July 13, 2016.

SUBPART A: PROGRAM SCOPE ~~AND INTERIM PROHIBITION~~**Section 731.110 Applicability**

- a) This Part applies to all owners and operators of an Underground Storage Tank (UST) system as defined in Section 731.112, except as otherwise provided in subsection (b) or (c).
 - 1) Previously Deferred UST Systems. Airport hydrant fuel distribution systems, UST systems with field-constructed tanks, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this Part as follows:
 - A) Airport hydrant fuel distribution systems and UST systems with field-constructed tanks must meet the requirements in Subpart K of this Part.
 - B) This subsection (a)(1)(B) corresponds with 40 CFR 280.11(a)(1)(ii), which subjects UST systems that store fuel solely for use by emergency power generators installed on or before October 13, 2015 to release detection requirements that are outside the scope of the Board's regulations. This statement maintains structural consistency with the federal regulations.
 - C) UST systems that store fuel solely for use by emergency power generators installed after October 13, 2015 must meet all applicable requirements of this Part at the time of installation.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 2) This subsection (a)(2) subjects various partially excluded UST systems to specified installation requirements outside the scope of the Board regulations. This statement maintains structural consistency with the federal regulations.
- b) Exclusions. The following UST systems are excluded from the requirements of this Part:
- 1) Any UST system holding hazardous waste or a mixture of such hazardous waste and other regulated substances.
 - 2) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 12(f) of the Act [415 ILCS 5/12(f)].
 - 3) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
 - 4) Any UST system whose capacity is 110 gallons or less.
 - 5) Any UST system that contains a de minimis concentration of regulated substances.
 - 6) Any emergency spill or overflow containment UST system that is expeditiously emptied after used.
- c) Partial Exclusions~~Deferrals~~.
- 1) Section 731.122 and Subpart K ~~does~~ not apply to any of the following ~~types of UST systems~~:
 - A) Wastewater treatment tank systems not covered under subsection (b)(2);
 - B) Aboveground storage tanks associated with either of the following:
 - i) Airport hydrant fuel distribution systems regulated under Subpart K; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- ii) UST systems with field-constructed tanks regulated under Subpart K;
- ~~CB)~~ Any UST systems containing radioactive materials that are regulated by the Nuclear Regulatory Commission under the Atomic Energy Act of 1954 (42 USC 2011 et seq.); and
- ~~DC)~~ Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed~~regulated~~ by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to under 10 CFR 50, appendix A, incorporated by reference in Section 731.113;
- ~~D)~~ Airport hydrant fuel distribution systems; and
- ~~E)~~ UST systems with field-constructed tanks.
- 2) Owners and operators subject to Title XVI of the Act are required to respond to releases in accordance with 35 Ill. Adm. Code ~~Part~~ 734 instead of Subpart F of this Part.
- d) Heating Oil USTs.
- 1) Definitions. The following definitions apply to this subsection (d) only:
- "Beneath the surface of the ground" is as defined in Section 731.112.
- "Consumptive use" with respect to heating oil means consumed on the premises.
- "Heating Oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker C. (Section 57.2 of the Act [415 ILCS 5/57.2])*
- "Heating Oil Underground Storage Tank" or "Heating Oil UST"~~;~~ means an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other*

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

than a farm or residential unit. (Section 57.2 of the Act [\[415 ILCS 5/57.2\]](#))

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Pipe" or "piping" is as defined in Section 731.112.

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ~~10 percent~~ [10 percentum](#) or more beneath the surface of the ground.

- 2) Subsections (a) through (c) notwithstanding, *this Part applies to owners and operators of any heating oil UST.* (Section 22.4(d)(4) of the Act [\[415 ILCS 5/22.4\(d\)\(4\)\]](#))
- 3) The owner or operator of a heating oil UST ~~must~~[shall](#) comply with the same requirements as the owner or operator of a petroleum UST, as defined in Section 731.112, any other provisions of this Part notwithstanding.

BOARD NOTE: This subsection (d) implements Section 22.4(d)(4) of the Act [\[415 ILCS 5/22.4\(d\)\]](#), which requires that this Part be applicable to "heating oil USTs," as that term is defined in Section 57.2 of the Act [\[415 ILCS 5/57.2\]](#). However, that and related terms are used in a manner that is inconsistent with the definitions and usage in this Part. The definitions used in this applicability statement are therefore limited to this subsection (d).

BOARD NOTE: Owners and operators of heating oil USTs are subject to Title XVI of the Act [\[415 ILCS 5/Title XVI\]](#) and therefore are required to respond to releases in accordance with 35 Ill. Adm. Code 734 instead of Subpart F of this Part.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.112 Definitions

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

"Act" means the Environmental Protection Act [\[415 ILCS 5\]](#)~~Ill. Rev. Stat. 1989, ch. 111½, par. 1001 et seq.~~

"Agency" means the Illinois Environmental Protection Agency.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves and pumps used to distribute, meter or control the flow of regulated substances to and from an UST.

"Belowground release" means any release to the subsurface of the land and to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Board" means the Illinois Pollution Control Board.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 [USC U.S.C.](#) 9601 et seq.)

"Connected piping" means all underground piping including valves, elbows, joints, flanges and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems must be allocated equally between them.

~~BOARD NOTE: For "consumptive use" see Section 731.110(e).~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"EMA" means the Illinois Emergency Management Agency.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, wall and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Fire Marshal" means the Office of the State Fire Marshal.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of materials during the operation of the of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous liquid phase (e.g., liquid not dissolved in water-).

"Gasoline Storage Act" means [415 ILCS 15Ill. Rev. Stat. 1989, ch. 127½, par. 151 et seq., as amended by P.A. 87-323.](#)

"Gathering lines" means any pipeline, equipment, facility or building used in the transportation of oil or gas during oil or gas production or gathering operations.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Hazardous substance" means any substance listed in 40 CFR 302.4, incorporated by reference in Section 731.113 (but not including any substance regulated as a hazardous waste under 35 Ill. Adm. Code 721).

BOARD NOTE: This definition is derived from the definition of "hazardous substance UST system" in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, and "hazardous substance" in Section 101(14) of CERCLA. The United States Environmental Protection Agency (USEPA) regulations ~~that which~~ implement the statutes cited in CERCLA have been inserted in place of the authorizing statutes.

"Hazardous substance UST system" means an underground storage tank system that contains a "hazardous substances," or any mixture of "hazardous substances" and "petroleum," and which is not a "petroleum UST system."

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); or other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers or furnaces.

BOARD NOTE: For the applicability of these rules to heating oil USTs, see Section 731.110(d)(e).

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevator and other similar devices.

"Liquid trap" means sumps, well cellars and other traps used in association with oil and gas production, gathering and extraction operations (including gas production plants), for the purpose of collecting oil, water and other liquid. These liquid traps may temporarily collect liquids for subsequent disposition for reinjection into a production or pipeline stream, or may collect and separate liquids from gas stream.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel or any grade of gasohol, and is typically used in the operation of a motor engine.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "Existing Tank System.")

"Noncommercial purposes" with respect to motor fuel means not for resale. ~~BOARD NOTE: For the definition of "on the premises where stored", see Section 731.110(e).~~

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means:

In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use or dispensing of regulated substances; and

In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, unit of local government, commission, political subdivision of a state or any interstate body. "Person" also includes a consortium, a joint venture, a commercial entity and the United States Government.

"Petroleum" means crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "petroleum" includes, but is not limited to, petroleum and petroleum-based substances comprising a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.

BOARD NOTE: This definition is derived from the definitions of "petroleum UST system" and "regulated substance" in 40 CFR 280.12, as adopted at 53 Fed.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Reg. 37194, September 23, 1988.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of "petroleum" with de minimis quantities of other "regulated substances."

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Pipe" or "Piping" means a hollow cylinder or tabular conduit that is constructed of non-earthen materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

"Regulated substance" means any "hazardous substance" or "petroleum."

BOARD NOTE: This definition is derived from the corresponding definition in 40 CFR 280.12, as adopted at 53 Fed. Reg. 37194, September 23, 1988, inserting terms defined elsewhere in this Section.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm water or wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) ~~that~~ which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ~~10 percent~~ ~~ten per centum~~ or more beneath the surface of the ground. ~~This~~ ~~Such~~ term does not include any of the following:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

BOARD NOTE: For the applicability of these rules to heating oil tanks, see Section 731.110(e).

Septic tank;

Pipeline facility (including gathering lines) ~~regulated under~~:

~~The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. 1671 et seq. (1987 and 1987 Supp.)), or~~

~~The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A. 2001 et seq. (1987)), or~~

~~The Illinois Gas Pipeline Safety Act (Ill. Rev. Stat. 1989, ch. 111 $\frac{2}{3}$, pars. 551 et seq.).~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

That is regulated under 49 USC 60101 through 60140; or

That is an intrastate pipeline facility regulated under state laws as provided in 49 USC 60105, and which is determined by the U.S. Department of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond or lagoon;:-

Storm-water or wastewater collection system;:-

Flow-through process tank;:-

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or; ~~Or~~;

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

BOARD NOTE: The term "underground storage tank" does not include any pipes connected to any tank ~~that~~which is described in the subparagraphs of this definition of "underground storage tank."~~above subparagraphs.~~

"USEPA" means United States Environmental Protection Agency.

"UST system" or "Tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical or biological methods.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.113 Incorporation~~Incorporations~~ by Reference

- a) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

783-3238:

~~10 CFR 50, Appendix A (1991)~~

~~40 CFR 280.3 (1987) (repealed September 23, 1988)~~

40 CFR 302.4 (2015) and 302.6 (1991)

- b) This Section incorporates no later editions or amendments.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

SUBPART B: UST SYSTEMS: DESIGN, CONSTRUCTION,
INSTALLATION AND NOTIFICATION

Section 731.122 Notification Requirements (Repealed)

- a) ~~Any owner who brings an underground storage tank system into use after May 8, 1986, shall within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix A, below, a notice of existence of such tank system to the Fire Marshal.—~~

~~BOARD NOTE: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Fire Marshal in accordance with RCRA and 40 CFR 280.3 (1987), unless notice was given pursuant to 40 CFR 302.6, incorporated by reference in Section 731.113. Section 4(b)(1) of the Gasoline Act (Ill. Rev. Stat. 1987, ch. 127½, par. 156(b)(1)) required notification by December 31, 1987, for tanks which held regulated substances after January 1, 1974. Owners and operators who have not complied with the notification requirements may use portions I through VI of the notification form contained in Appendix A.~~

- e) ~~Owners required to submit notices under subsection (a), above, shall provide notices to the Fire Marshal for each tank they own. Owners may provide notice for several tanks using one notification form, but owners who own tanks located at more than one place of operation shall file a separate notification form for each separate place of operation.~~
- d) ~~Notices required to be submitted under subsection (a), above, must provide all of~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~the information in Sections I through VI of the form for each tank for which notice must be given. Notices for tanks installed after December 22, 1988, must also provide all of the information in Section VII of the prescribed form for each tank for which notice must be given.~~

- e) ~~All owners and operators of new UST systems shall certify in the notification form compliance with the following requirements:~~
 - 1) ~~Installation of tanks and piping;~~
 - 2) ~~Cathodic protection of steel tanks and piping;~~
 - 3) ~~Financial responsibility; and~~
 - 4) ~~Release detection.~~
- f) ~~All owners and operators of new UST systems shall ensure that the installer certifies in the notification form that the methods used to install the tanks and piping complies with regulatory requirements.~~
- g) ~~Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification obligations under subsection (a), above. The form provided in Appendix C may be used to comply with this requirement.~~

(Source: Repealed at 40 Ill. Reg. 10312, effective July 13, 2016)

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section 731.161 Initial Response

Upon confirmation of a release or after a release from the UST system is identified in any other manner, owners and operators ~~must~~shall perform the following initial response actions within 24 hours of a release:

- a) Report the release to EMA (e.g., by telephone or electronic mail);
- b) Take immediate action to prevent any further release of the regulated substance into the environment; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- c) Identify and mitigate fire, explosion and vapor hazards.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.162 Initial Abatement Measures and Site Check

- a) Owners and operators mustshall perform the following abatement measures:
- 1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
 - 2) Visually inspect any aboveground releases or exposed belowground releases and prevent further migration of the released substance into surrounding soils and groundwater;
 - 3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into substance structures (such as sewers or basements);
 - 4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator mustshall comply with 35 Ill. Adm. Code 722, 724, 725 and 807 through 815.
 - 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check or the closure site assessment. In selecting sample types, sample locations and measurement methods, the owner and operator mustshall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and
 - 6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 731.164.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) Within 20 days after release confirmation, owners and operators mustshall submit a report to the Agency, summarizing the initial abatement steps taken under subsection (a), ~~above~~, and any resulting information or data.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.163 Initial Site Characterization

- a) Owners and operators mustshall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Section 731.160 and Section 731.161. This information must include, but is not necessarily limited to the following:
- 1) Data on the nature and estimated quantity of release;
 - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;
 - 3) Results of the site check required under Section 731.162(a)(5); and
 - 4) Results of the free product investigations required under Section 731.162(a)(6), to be used by owners and operators to determine whether free product must be recovered under Section 731.164.
- b) Within 45 days after confirmation of the release, owners and operators mustshall submit the information collected in compliance with subsection (a) to the Agency, in a manner that demonstrates its applicability and technical adequacy.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.164 Free Product Removal

At sites where investigations under Section 731.162(a)(6) indicate the presence of free product, owners and operators mustshall remove free product to the maximum extent practicable, while

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

continuing, as necessary, any actions initiated under Section 731.161 through Section 731.163, or preparing for actions required under Section 731.165 through Section 731.166. In meeting the requirements of this Section, owners and operators must:

- a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by products in compliance with applicable local, state and federal regulations;
- b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- c) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and
- d) Prepare and submit to the Agency, within 45 days after confirming a release, a free product removal report that provides at least the following information:
 - 1) The name of the persons responsible for implementing the free product removal measures;
 - 2) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavation;
 - 3) The type of free product recovery system used;
 - 4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - 5) The type of treatment applied to, and the effluent quality expected from, any discharge;
 - 6) The steps that have been or are being taken to obtain necessary permits for any discharge; and
 - 7) The disposition of the recovered free product.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 731.165 Investigations for Soil and Groundwater Cleanup

- a) In order to determine the full extent and location of soils contaminated by the release, and the presence and concentrations of dissolved product contamination in the groundwater, owners and operators mustshall conduct investigations of the release, the release site, and the surrounding area possibly affected by the release if any of the following conditions exist:
- 1) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);
 - 2) Free product is found to need recovery in compliance with Section 731.164;
 - 3) There is evidence that contaminated soils may be in contact with groundwater (e.g., as found during conduct of the initial response measures or investigations required under SectionsSection 731.160 through Section 731.164); and
 - 4) The Agency requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources.
- b) Owners and operators mustshall submit the information collected under subsection (a) as soon as practicable or in accordance with a schedule established by the Agency.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.166 Corrective Action Plan

- a) At any point after reviewing the information submitted in compliance with SectionsSection 731.161 through Section 731.163, the Agency may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators mustshall submit the plan according to a schedule and format established by the Agency. Alternatively, owners and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

operators may, after fulfilling the requirements of ~~Sections~~Section 731.161 through ~~Section~~731.163, choose to submit a corrective action plan for responding to contaminated soil and groundwater.

- b) The Agency ~~must~~shall approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety and the environment. In making this determination, the Agency ~~must~~shall consider the following factors as appropriate:
- 1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence and potential for migration;
 - 2) The hydrogeologic characteristics of the facility and the surrounding area;
 - 3) The proximity quality and current and future uses of nearby surface water and groundwater;
 - 4) The potential effects of residual contamination on nearby surface water and groundwater;
 - 5) An exposure assessment; and
 - 6) Any information assembled in compliance with this Subpart.
- c) Upon approval of the corrective action plan or as directed by the Agency, owners and operators ~~must~~shall implement the plan, including modifications to the plan made by the Agency. They ~~must~~shall monitor, evaluate and report the results of implementing the plan in accordance with a schedule and in a format established by the Agency.
- d) Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and groundwater before the corrective action plan is approved provided that they:
- 1) Notify the Agency of their intention to ~~begin~~being cleanup;
 - 2) Comply with any conditions imposed by the Agency, including halting cleanup or mitigating adverse consequences from cleanup activities; and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 3) Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Agency.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.167 Public Participation

- a) For each confirmed release that requires a corrective action plan, the Agency mustshall provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice must include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in the Illinois Register, letters to individual household or personal contacts by field staff.
- b) The Agency mustshall ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.
- c) Before approving a corrective action plan, the Agency mustshall hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reasons.
- d) The Agency mustshall give public notice that complies with subsection (a) if implementation of an approved corrective action plan does not achieve the established cleanup levels in the plan and termination of that plan is under consideration by the Agency.

(Source: Amended at 40 Ill. Reg. 10312, effective July 13, 2016)

SUBPART K: UST SYSTEMS WITH FIELD-CONSTRUCTED TANKS
AND AIRPORT HYDRANT FUEL DISTRIBUTION SYSTEMS

Section 731.250 Definitions

For purposes of this Subpart K, the following definitions apply:

"Airport hydrant fuel distribution system" or "airport hydrant system" means a UST system that fuels aircraft and operates under high pressure with large diameter piping which typically terminates into one or more hydrants (fill stands).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

The "airport hydrant system" begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

(Source: Added at 40 Ill. Reg. 10312, effective July 13, 2016)

Section 731.251 General Requirements

- a) Implementation of Requirements. Owners and operators must comply with the release response requirements of this Part for UST systems with field-constructed tanks and airport hydrant systems at installation.

BOARD NOTE: Corresponding 40 CFR 280.251(a) includes compliance deadlines for UST upgrade; general operating; operator training; release detection, release reporting, response, and investigation; closure; financial responsibility; and notification requirements. Of these, Board regulations include only the release response requirements. Fire Marshal requirements apply to all of the other UST requirements.

- b) This subsection (b) corresponds with 40 CFR 280.251(b), which requires compliance with UST notification requirements, which are outside the scope of Board regulations. This statement maintains structural consistency with the corresponding federal regulations.
- c) Owners and operators must comply with the requirements of Subparts A and F of this Part.
- d) This subsection (d) corresponds with 40 CFR 280.251(d), which requires compliance with UST performance standards, which are outside the scope of Board regulations. This statement maintains structural consistency with the corresponding federal regulations.

(Source: Added at 40 Ill. Reg. 10312, effective July 13, 2016)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 731.APPENDIX A Notification Form (Repealed)

~~The Board incorporates by reference 40 CFR 280, Appendix I (1991). This Section incorporates no future editions or amendments. Persons required to notify shall use forms provided by the Fire Marshal if available. Otherwise, they may prepare forms based on 40 CFR 280, Appendix I.~~

(Source: Repealed at 40 Ill. Reg. 10312, effective July 13, 2016)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 731.APPENDIX C Statement for Shipping Tickets and Invoices (Repealed)

~~Note. A Federal law (The Resource Conservation and Recovery Act (RCRA), as amended (Pub. L. 98-616)) requires owners of certain underground storage tanks to notify designated State or local agencies by May 8, 1986, of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Consult USEPA's regulations, issued on November 8, 1985 (40 CFR 280) to determine if you are affected by this law.~~

(Source: Repealed at 40 Ill. Reg. 10312, effective July 13, 2016)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 12, 2016 through July 17, 2016. The rulemakings are scheduled for review at the Committee's August 9, 2016 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>
8/24/16	<u>Office of the Comptroller</u> , Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment (74 Ill. Adm. Code 330)	5/20/16 40 Ill. Reg. 7519	8/9/16
8/24/16	<u>Department of Insurance</u> , Licensing of Public Adjusters (50 Ill. Adm. Code 3118)	4/8/16 40 Ill. Reg. 5813	8/9/16

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

Heading of the Part: Chief Procurement Officer for Capital Development Board

Code Citation: 44 Ill. Adm. Code 8

Section Numbers: 8.2020

Date Originally Published in the *Illinois Register*: 4/15/16
40 Ill. Reg. 06294

At its meeting on 7/12/16, JCAR objected to the rulemaking of the CPO-CDB titled Chief Procurement Officer for the Capital Development Board (44 Ill. Adm. Code 8; 40 Ill. Reg. 6294).

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

EXECUTIVE ORDERS

2016-8
EXECUTIVE ORDER TO ENSURE EQUAL OPPORTUNITY
IS PROVIDED TO ALL ILLINOIS BUSINESSES

WHEREAS, Illinois benefits from a diverse, multi-ethnic population, which contributes to the success of our economy and the character of our community; and

WHEREAS, it is the public policy of the State of Illinois to promote and encourage the continuing economic development of businesses owned by minority persons, women, and persons with disabilities; and

WHEREAS, the State of Illinois 2015 Disparity and Availability Study found that disparities exist between the availability of minority-owned and female-owned businesses and their utilization on State contracts and associated subcontracts, as well as throughout the wider Illinois economy; and

WHEREAS, the State's Chief Procurement Officer for General Services oversees the competitive bid process by which goods and services for the State are procured, and the Department of Central Management Services through its Business Enterprise Program works closely with the Chief Procurement Officer on procurements for agencies under the purview of the Office of the Governor; and

WHEREAS, ensuring that business opportunities are open to all persons and businesses, including in particular those of diverse backgrounds, and alleviating any discrimination and disparities in business opportunities, are critical to ensuring that Illinois's economy grows and our community strengthens;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

As used in this Executive Order:

"BEP" means the State of Illinois Business Enterprise Program.

"CMS" means the Illinois Department of Central Management Services.

"CPO" means the Chief Procurement Officer for General Services.

EXECUTIVE ORDERS

"Disparity Study" means the State of Illinois 2015 Disparity and Availability Study.

"Female Owned Business" has the meaning provided by Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/2).

"Minority Owned Business" has the meaning provided by Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/2).

"Minority Person" has the meaning provided by Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/2).

"Sheltered Market" has the meaning provided by Section 8b of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/8b).

"State contracts" has the meaning provided by Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act (30 ILCS 575/2).

II. IMPLEMENTATION OF DISPARITY STUDY RECOMMENDATIONS

While CMS, the Governor's Office, and the CPO already aim to eliminate barriers in State contracting to minority and female owned businesses and to increase access to State contracting information for these market players through the State's Business Enterprise Program housed at CMS, the 2015 Disparity and Availability Study reveals the State can do much more to advance the principle of fair contracting. CMS, in partnership with the Office of the Governor, shall implement the following reform programs within various agencies under the jurisdiction of the Governor:

Mentor/Protégé Program: CMS shall develop a Mentor/Protégé program to foster the development and mentoring of minority and female owned businesses. This program will pair BEP businesses with more experienced businesses to create mutually beneficial relationships. Protégés may receive financial, technical, or management assistance in obtaining and performing State contracts, while mentors may receive credit toward BEP goals that have been placed on their contracts in addition to other incentives.

Electronic Contracting: CMS shall implement an electronic contract data collection and monitoring system to track certain data included in State contracts relating to the utilization of BEP firms. This will increase transparency and access for vendors and ensure that the program meets best practices.

Financial Assistance: Access to bonding and working capital are the two largest barriers to the development and success of minority businesses. CMS shall take steps to enhance

EXECUTIVE ORDERS

access to the current State-sponsored bonding and financial assistance programs. The State may allocate more resources to such programs to permit larger loans and bonds, helping to increase the capacity of BEP businesses.

Goal Setting: CMS shall review the process for placing BEP goals on State contracts using the availability estimates in the 2015 Disparity Study. CMS shall reform its goal-setting procedures accordingly and implement recommendations included in the Disparity Study to improve the process.

Procurement Forecasting: The ability to plan ahead is critical for small firms, which often lack the resources to respond quickly to new opportunities. CMS shall implement procurement forecasts, whereby State agencies project what they will spend at the general industry level or on specific projects, in order to increase BEP businesses' access to State contracting information.

Increased Information: CMS shall conduct a review of the time it takes to put bid solicitations out to the public and the period of time in which bidders are required to submit their responses, to find ways to give prime and subcontractors an opportunity to identify partners when bidding on State contracts.

Remove Barriers: CMS shall conduct a review of barriers to BEP businesses seeking State contracts, such as current experience requirements and location requirements, in an effort to address unequal access to contracting opportunities created by unnecessary or burdensome standards.

CMS shall report on its findings and its progress to the Office of the Governor and the CPO by July 1 of each year, beginning on July 1, 2017. This Section II shall not be construed to diminish the procuring authority or statutory responsibility of the CPO.

III. SHELTERED MARKET INITIATIVE

Sheltered markets are a procurement procedure in which certain State contracts are selected and specifically set aside for businesses owned and controlled by minorities, females, and persons with disabilities through competitive solicitations. Through this process, sheltered markets initiatives work to advance parity in State contracting for these groups. In the spirit of these initiatives, CMS shall review the findings of the 2015 Disparity and Availability Study, which examined disparities across different categories of spending. Where sheltered markets could be an appropriate solution to identified disparities in industry-specific areas, CMS shall take appropriate steps for the establishment of sheltered markets pursuant to the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, the Illinois Procurement Code, and other applicable law.

EXECUTIVE ORDERS

CMS shall report on its findings and its progress to the Office of the Governor and the CPO by July 1 of each year, beginning on July 1, 2017. This Section III shall not be construed to diminish the procuring authority or statutory responsibility of the CPO.

IV. SAVINGS CLAUSE

This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

V. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any other prior Executive Order.

VI. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

VII. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.

Issued by Governor: July 13, 2016

Filed with Secretary of State: July 13, 2016

2016-9**EXECUTIVE ORDER IMPLEMENTING THE NEXT PHASE
OF THE MILLENNIUM RESERVE INITIATIVE**

WHEREAS, the Millennium Reserve is a transforming region, located within the broader Calumet Region, encompassing neighborhoods in the south side of the City of Chicago and along the Lake Michigan coast, as well as 37 south suburban municipalities near the Indiana border; and

WHEREAS, the Millennium Reserve is home to nearly one million Illinois residents; 15,000 acres of open space, including parks, trails, wetlands, and forest preserves; more than 90 nationally significant historic landmarks and districts; and notable infrastructure and economic assets that could be leveraged to strengthen commerce and accelerate job growth in sustainable industries; and

EXECUTIVE ORDERS

WHEREAS, the State of Illinois and regional partners launched the Millennium Reserve Initiative in 2012 to develop a shared vision and action plan for the region, with the goal of maximizing the region's natural resources, promoting sustainable economic growth, and garnering support from public and private stakeholders to achieve those objectives; and

WHEREAS, Executive Order 2013-03 established the Millennium Reserve Steering Committee, to bring together public, non-profit, and private sector partners to lead the Millennium Reserve Initiative, to develop goals and priorities for action, and to identify specific projects of regional significance; and

WHEREAS, Executive Order 2013-03 also directed five State agencies (the Department of Natural Resources, the Department of Commerce and Economic Opportunity, the Department of Transportation, the Historic Preservation Agency, and the Illinois Environmental Protection Agency) to support the Millennium Reserve Initiative through the Millennium Reserve State Agency Task Force; and

WHEREAS, the Millennium Reserve Steering Committee, through the dedication and hard work of its members and with the support of the State agencies identified above, has advanced the initiative by identifying essential priorities for the region and supporting on-the-ground work that directly benefits those communities; and

WHEREAS, members of the Millennium Reserve Steering Committee have demonstrated sufficient interest and commitment to the initiative that the initiative would benefit from being established as a self-supporting, permanent organization, independent of the State, with flexibility to set its own agenda and goals; and

WHEREAS, the State will continue to support and be a partner in the Millennium Reserve Initiative;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, do hereby order as follows:

I. LEADERSHIP FOR THE MILLENNIUM RESERVE INITIATIVE

Executive Order 2013-03, issued on March 1, 2013, is revoked and rescinded, to enable members of the Millennium Reserve Steering Committee and other supporting partners to take the necessary steps to establish a self-supporting, independent organization to continue leading the Millennium Reserve Initiative and supporting its important mission.

EXECUTIVE ORDERS

II. STATE SUPPORT FOR THE MILLENNIUM RESERVE INITIATIVE

The Office of the Governor affirms its commitment to the goals and guiding principles of the Millennium Reserve Initiative. Notwithstanding the revocation of Executive Order 2013-03, the Millennium Reserve State Agency Task Force (the "Task Force") is reinstated so that the member State agencies may continue to support the work of the Millennium Reserve Initiative through their existing programs and resources.

1. Composition

The Task Force shall be comprised of the director or secretary, or his or her designee, of each of the Department of Natural Resources, the Department of Commerce and Economic Opportunity, the Department of Transportation, the Historic Preservation Agency, and the Illinois Environmental Protection Agency, and a designee of the Office of the Governor. The Task Force may invite the participation of other State agencies, Federal agencies, and units of local government whose missions, authorities, and resources could be leveraged to implement the priorities and priority projects of the Millennium Reserve Initiative.

The Department of Natural Resources shall provide administrative support to and manage the affairs of the Task Force, and its director or designee to the Task Force shall serve as chairperson of the Task Force.

2. Responsibilities

The Task Force shall promote collaboration among government agencies and the community partners towards the goal of transforming the communities, commerce, and wildlife of the Millennium Reserve region. The Task Force may consider the recommendations, action plan, priorities, and priority projects being advanced by the successor organization to the Millennium Reserve Steering Committee and other Millennium Reserve Initiative partners. The Task Force shall identify barriers faced by Millennium Reserve Initiative partners to accessing information, technical assistance, and funding from the Task Force's member agencies; develop sustainable policies and programs to address those barriers within each agency's mission, authorities, and existing resources; and promote and facilitate public-private partnerships to advance the initiative's goals.

III. REPORT AND SUNSET

The Task Force shall issue an annual report of its findings and recommendations to the Governor by June 30, 2017, and a final report by June 30, 2018. Upon submission of its final report, the Task Force shall be dissolved.

EXECUTIVE ORDERS

IV. TRANSPARENCY

In addition to whatever policies or procedures it may adopt, the Task Force shall be subject to the provisions of the Freedom of Information Act (5 ILCS 140). This section shall not be construed as to preclude other statutes from applying to the Task Force and its activities.

V. SAVINGS CLAUSE

This Executive Order does not contravene, and shall not be construed to contravene, any federal law, State statute, or collective bargaining agreement.

VI. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

VII. EFFECTIVE DATE

This Executive Order shall take effect immediately upon filing with the Secretary of State.

Issued by Governor: July 14, 2016

Filed with Secretary of State: July 14, 2016

PROCLAMATIONS

2016-191**Flag Lowering – Honoring Illinois' Fallen Firefighter Eric Kohlbauer**

WHEREAS, we hold the highest esteem and reverence for the men and women who answer the call to serve their friends, family, and communities; and,

WHEREAS, firefighters save countless lives every year with their heroic efforts; and,

WHEREAS, firefighters not only demonstrate the desire to serve, but also the courage to act calmly and professionally when faced with dangerous situations; and,

WHEREAS, a 29-year veteran volunteer of the Freeport Rural Fire Department, firefighter Eric Kohlbauer, 52, died due to a medical emergency during a training exercise on Tuesday, July 12, 2016; and,

WHEREAS, although firefighter Eric Kohlbauer is no longer with us, we will not forget the countless lives that were impacted by his service; and,

WHEREAS, a funeral service will be held Monday, July 18, 2016, at Zion Church of Freeport for firefighter Eric Kohlbauer;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff starting Friday, July 15, 2016 until sunset on Monday, July 18, 2016, in honor and remembrance of firefighter Eric Kohlbauer, whose selfless service and sacrifice are an inspiration to the residents of the Land of Lincoln.

Issued by the Governor July 14, 2016

Filed by the Secretary of State July 14, 2016

2016-191 (Revised)**Flag Lowering – Honoring Illinois' Fallen Firefighter Eric Kohlbauer**

WHEREAS, we hold the highest esteem and reverence for the men and women who answer the call to serve their friends, family, and communities; and,

WHEREAS, firefighters save countless lives every year with their heroic efforts; and,

WHEREAS, firefighters not only demonstrate the desire to serve, but also the courage to act calmly and professionally when faced with dangerous situations; and,

PROCLAMATIONS

WHEREAS, a 29-year veteran volunteer of the Freeport Rural Fire Department, firefighter Eric Kohlbauer, 52, died due to a medical emergency during a training exercise on Tuesday, July 12, 2016; and,

WHEREAS, although firefighter Eric Kohlbauer is no longer with us, we will not forget the countless lives that were impacted by his service; and,

WHEREAS, a funeral service will be held Monday, July 18, 2016, at Zion Church of Freeport for firefighter Eric Kohlbauer;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff starting Saturday, July 16, 2016 until sunset on Monday, July 18, 2016, in honor and remembrance of firefighter Eric Kohlbauer, whose selfless service and sacrifice are an inspiration to the residents of the Land of Lincoln.

Issued by the Governor July 14, 2016

Filed by the Secretary of State July 14, 2016

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 40, Issue 31 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

86 - 130	.....	10083
92 - 1030	.....	10137
2 - 2026	.....	10149
2 - 2026	.....	10168
50 - 9015	.....	10191
50 - 9020	.....	10199
50 - 9030	.....	10221
50 - 9040	.....	10237
50 - 9050	.....	10252
50 - 9060	.....	10256
50 - 9070	.....	10260
50 - 9090	10268
50 - 9100	10272
50 - 9110	10307

ADOPTED RULES

35 - 731	7/13/2016	10312
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JCAR REVIEW OF EXISTING RULES

STATEMENT OF OBJECTIONS

44 - 8	10342
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**EXECUTIVE ORDERS AND
PROCLAMATIONS**

16 - 8	7/13/2016	10343
16 - 9	7/14/2016	10346
16 - 191	7/14/2016	10350
16 - 191	7/14/2016	10350

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