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NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Riverboat Gambling

2) **Code Citation:** 86 Ill. Adm. Code 3000

3) **Section Number:** 3000.800  **Proposed Action:** Amendment

4) **Statutory Authority:** Riverboat Gambling Act [230 ILCS 10] (specifically 230 ILCS 10/5(b)(4) and 5(c)(3), and Public Act 94-673)

5) **A Complete Description of the Subjects and Issues Involved:** The Illinois Gaming Board requires riverboat casinos to record via videotape gambling activity as well as related areas of casino operations and the physical space. When the original rule was adopted in 1991, videotape technology was the latest trend in casino surveillance and security activities. Since then, technology has advanced significantly, replacing videotape technology with digital technology in many applications. In addition, riverboat casinos are desirous of using the new digital formats, which reduce storage space requirements and permit greater access to recorded data. Because of the costs associated with the new technology, the proposed rule would authorize the casinos to either maintain their current system or upgrade their systems by using newer or emerging technologies.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** Yes

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10) **Statement of Statewide Policy Objective:** The Illinois Gaming Board is charged with strictly regulating riverboat casino operations. As technologies emerge that enhance the overall capacity to monitor such operations, the Board must be prepared to authorize the use of such technologies in order to meet its statutory mandates. In addition, riverboat casinos require the ability to use emerging technologies to improve their operations.

11) **Time, place and manner in which interested persons may comment on this proposed rulemaking:** Any interested person may submit comments in writing concerning this
ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

proposed rulemaking not later than 45 days after publication of this Notice in the Illinois Register to:

Jeannette P. Tamayo
Deputy Chief Counsel
Illinois Gaming Board
160 N. LaSalle, Suite 300S
Chicago, Illinois 60601

(312) 814-4700; FAX (312) 814-4602

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities, and not for profit corporations affected: None

B) Reporting, bookkeeping, or other procedures required for compliance: Not applicable

C) Types of professional skills necessary for compliance: Not applicable

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: proposed amendment was not included on the January 2005 Regulatory Agenda as the Illinois Gaming Board lacked a quorum to establish policy priorities. In March 2005, three additional Members joined the Board, establishing a quorum. The newly appointed Board identified this policy item on its public Agenda, gave notice to the public of the text under consideration at its October 16, 2005 Board Meeting and solicited informal public comment prior to filing this rulemaking. On December 8, 2005, pursuant to a duly noticed Agenda, the Board publicly voted to approve filing this proposed amendment.

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

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARD

PART 3000
RIVERBOAT GAMBLING

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NOTICE OF PROPOSED AMENDMENT

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3000.280 Registration of All Gaming Devices
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AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].


SUBPART H: SURVEILLANCE AND SECURITY

Section 3000.800 Required Surveillance Equipment

The holder of an Owner's License shall install in the Riverboat a closed circuit television system in accord with the specifications herein and shall provide access to the system or its signal by the Board. The closed circuit television must meet or exceed the following specifications:

a) Solid state, black and white cameras, \(\frac{3}{8}, \frac{1}{2}, \frac{5}{8} \text{ or } \frac{1}{4}\) format, with minimum 400
ILLINOIS GAMING BOARD

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plus line resolution installed in fixed positions with matrix control and/or with pan, tilt and zoom capabilities, secreted from public and non-surveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

1) The Gaming conducted at the Electronic Gaming Devices;

2) The master display board and the number or ball selection device for Keno;

3) The count processes conducted in the count rooms;

4) The movement of cash, Chips, drop boxes, tip boxes, Token storage boxes, and drop buckets within the Riverboat and any area of transit of uncounted Tokens, Chips, cash and cash equivalents;

5) Any area where Tokens or Chips can be purchased, Vouchers issued, or Tokens, Chips or Vouchers redeemed, including but not limited to Voucher Validation Terminals and cage cashiers at a holder of an Owner's license;

6) The entrance and exits to the Riverboat and the count rooms;

7) For all live Games regardless of patron or employee position:
   A) Hands of all Gaming patrons and dealers;
   B) Tray; and
   C) Overall layout of the table area capable of capturing clear individual images of Gaming patrons and dealers, inclusive of, without limitation, facial views and the playing surface so that the outcome of each Game may be clearly observed;

8) Such other areas as the Administrator designates;

b) Individual solid state, color, television cameras, ⅜, ⅝, ⅔ or ¼ format, with minimum 320 plus line resolution with matrix and/or pan, tilt and zoom capabilities, secreted from public and non-surveillance personnel view augmented with appropriate color corrected lighting to effectively and clandestinely monitor
ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

in detail, from various vantage points, the following:

1) Roulette tables, in a manner to clearly observe the Wagers, patrons, and
the outcome of each Game;

2) The operations conducted at the fills and credit area of the cashier's cages;

c) All closed circuit cameras equipped with lenses of sufficient magnification to
allow the operator to clearly distinguish the value of the Chips, Tokens and
playing cards;

d) Video monitors that meet or exceed the resolution requirement for video cameras
with solid state circuitry, and time and date insertion capabilities for taping what
is being viewed by any camera in the system. Each video monitor screen must
measure diagonally at least 12 inches and all controls must be front mounted;

e) Video printers capable of adjustment and possessing the capability to generate
instantaneously, upon command, a clear, color and/or black and white, copy of the
image depicted on the videotape or digital recording;

f) Date and time generators based on a synchronized, central or master clock,
recorded on tape and visible on any monitor when recorded;

g) Wiring to prevent tampering. The system must be supplemented with a back-up
gas/diesel generator power source which is automatically engaged in case of a
power outage and capable of returning to full power within seven to ten seconds;

h) An additional uninterrupted power supply system so that time and date generators
remain active and accurate, and switching gear memory and video surveillance of
all riverboat entrances/exits and cage areas is continuous;

i) Video switchers capable of both manual and automatic sequential switching for
the appropriate cameras;

j) Licensees may utilize both digitally recorded channels and analog recorded
channels and must provide the IGB with the necessary software/hardware to
review videotaped or digitally recorded information. Equipment must meet the
following standards:

1) Videotape recorders capable of producing high quality first generation
pictures with a horizontal resolution of a minimum of 240 plus lines non-
consumer, industrial grade, and recording on a standard ½ inch, V.H.S.
tape with high-speed scanning and flickerless playback capability in real-
time (23 to 30 frames per second). Such videotape recorders must possess
time and date insertion capabilities for taping what is being viewed by any
camera in the system; or

2) All digital channels recording gaming related images must record at a
minimum of 30 images per second, with non-gaming channels recorded at
an acceptable industry standard. Such digital systems must allow the
secure and audited export of video files at the resolution originally
recorded, include the capability of providing watermarked recordings or
non-editable formatting to insure the integrity of the recorded images, and
must be secure systems separated from the casino information technology,
ticket vouchering technology, electronic gaming device system, and
network systems.

k) Audio capability in the soft count room; and

l) Adequate lighting in all areas where camera coverage is required. The lighting
shall be of sufficient intensity to produce clear videotape or digitally recorded and
still picture production, and correct color correction where color camera recording
is required. The video must demonstrate a clear picture, in existing light under
normal operating conditions.

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
PRISONER REVIEW BOARD

NOTICE OF PROPOSED RULE

1) **Heading of the Part**: Certificates of Relief from Disability and Good Conduct Certificates

2) **Code Citation**: 20 Ill. Adm. Code 1620

3) **Section Number**
   
   **Proposed Action**
   
   1620.10  New Section

4) **Statutory Authority**: Implementing Sections 5-5, 5-20 and 5-5, 5-25 and authorized by Section 3-3-2(d) of the Unified Code of Corrections [730 ILCS 5/5-5, 5-20, 5-5.5-25 and 3-3-2(d)].

5) **A Complete Description of the Subjects and Issues Involved**: The Prisoner Review Board will have the authority to issue Certificates of Relief from Disability and Certificates of Good Conduct. Certificates of Relief from Disability will be issued to petitioners who qualify and who want licenses in the following areas: Animal Welfare Act; Illinois Athletic Trainers Act; Barber, Cosmetology, Esthetics, Nail Technology Act; Boiler and Pressure Vessel Repairer Act; Professional Boxing Act; Shorthand Reporters Act; Farm Labor Contractor Act; Interior Design Act; Professional Land Surveyor Act; Landscape Architecture Act; Marriage and Family Therapy Act; Professional Counselor and Clinical Professional Counselor Act; Real Estate License Act; Illinois Roofing Industry Act; Professional Engineering Practice Act; Water Well and Pump Installation Contractors License Act; Private Employment Agency Act and Electrologist Licensing Act.

   Certificates of Good Conduct will be issued to eligible persons who have not been convicted of a crime of violence, a Class X or non-probationable offense or persons convicted of more than one felony. Certificates of Good Conduct shall be issued to persons the Prisoner Review Board believes have conducted themselves in a manner warranting the issuance for a minimum period set out by statute.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **Are there any other proposed rulemakings pending on this Part?** No
PRISONER REVIEW BOARD

NOTICE OF PROPOSED RULE

10) **Statement of Statewide Policy Objectives:** The purpose of the Certificates of Relief From Disability and the Good Conduct Certificates is to allow persons who have been convicted of a felony to obtain employment.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Any interested party may make written comments within 45 days after the publication of this Notice to:

   Kenneth Tupy
   Chief Legal Counsel
   Prisoner Review Board
   319 E. Madison Street
   Suite A
   Springfield Illinois 62701.

   (217) 782-1610

12) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** None

   B) **Reporting, bookkeeping or other procedures required for compliance:** None

   C) **Types of professional skills necessary for compliance:** None

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was not anticipated that there would be a need for this rulemaking on the last two regulatory agendas.

The full text of the Proposed Rule begins on the next page:
PRISONER REVIEW BOARD

NOTICE OF PROPOSED RULE

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER IV: PRISONER REVIEW BOARD

PART 1620
CERTIFICATES OF RELIEF FROM DISABILITY AND GOOD CONDUCT CERTIFICATES

Section 1620.10  Issuance of Certificates of Relief from Disability and Good Conduct Certificates

AUTHORITY: Implementing Sections 5-5.5-20 and 5-5.5-25, and authorized by Section 3-3-2(d) of, the Unified Code of Corrections [730 ILCS 5/5-5.5-20, 5-5.5-25 and 3-3-2(d)].

SOURCE: Adopted at 30 Ill. Reg. _______, effective ____________.

Section 1620.10  Issuance of Certificates of Relief from Disability and Good Conduct Certificates

a) Certificates of Relief from Disabilities (CRD). Article 5.5 of Chapter V of the Unified Code of Corrections [730 ILCS 5/Ch. V, Art. 5.5] (Code) authorizes the Prisoner Review Board (PRB) to issue a CRD to eligible persons who have been committed of no more than one of a specified group of felonies (see Section 5-5.5-5 of the Code). When a CRD is presented to a State licensing agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character, unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

1) Application. All applications for CRDs shall be made by written petition.

2) Intent to License. Whenever possible, before an inmate is released from the Illinois Department of Corrections (DOC), DOC counselors shall interview eligible inmates about whether the inmate wishes to receive one or more of the licenses enumerated in 730 ILCS 5/5-5-5(i). If the inmate wishes to receive such a license DOC shall include, in the supplemental program consideration report or any other written report, a statement that the inmate wishes to receive a CRD.
PRISONER REVIEW BOARD

NOTICE OF PROPOSED RULE

3) DOC Reports. The supplemental program consideration report or any other report or application requesting that PRB issue a CRD shall contain information about the inmate's incarcerating offense and his or her institutional adjustment, current classification, escape risk classification, educational achievements while in DOC custody, family situation, current assessment by DOC, disciplinary tickets received in DOC, and release plans and recommendations from DOC regarding whether he or she should receive a CRD.

4) PRB Hearing. Upon receipt from DOC of the supplemental program consideration report or a report or application requesting that the inmate receive a CRD, PRB shall look at the information supplied by DOC. The hearing conducted by PRB does not require the presence of the inmate.

5) PRB Determination. PRB shall issue a CRD after reviewing the information if PRB is convinced that:

   A) the person to whom it is to be granted is an eligible offender. In making the determination as to whether the inmate should be issued a CRD, PRB will look at aggravating and mitigating factors.

      i) Aggravating factors are the committing offense, including whether anyone was physically or emotionally harmed by the offense; whether the inmate committed any disciplinary tickets while incarcerated; whether the inmate committed any new offenses while incarcerated; drug or alcohol abuse; and the petitioner's history of violence.

      ii) Mitigating factors are: whether the inmate has no aggravating factors; education received in DOC; certificates received in DOC; drug, alcohol or anger management programs completed while in DOC; voluntary participation in developmental activities that are consistent with rehabilitation of the petitioner; and whether DOC recommends a CRD.

   B) the relief to be granted by the CRD is consistent with the rehabilitation of the eligible offender.
b) Certificate of Good Conduct (CGC). Section 5-5.5-25 of the Code authorizes PRB to issue CGCs to eligible persons convicted of misdemeanors or felonies. CGCs shall be considered temporary during any period of parole or mandatory supervised release. Upon expiration or termination of parole or mandatory supervised release, the CGC becomes permanent unless revoked by PRB. A CGC may be presented to prospective employers for their consideration in making hiring decisions.

1) All applications for a CGC shall be made by written petition.

2) The application shall contain:

   A) a brief history of the offense, including the date sentenced, the sentence imposed, the name of the sentencing judge, the case number, whether the conviction was a result of a verdict or plea, the date of discharge, the county where the sentence was issued and any appeals filed in the case and the result of those appeals.

   B) the name of the petitioner, any aliases the petitioner may have used, the social security number of the petitioner, the petitioner's DOC number, the birthdate of the petitioner, a complete criminal history of the petitioner, and the place of the petitioner's birth.

3) The application may additionally contain:
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A) optional information regarding schools attended, degrees received, certificates received, employment history, places of residence, marital status, children's names and ages, military service and type of discharge from the military, any property owned including cars and real estate, bank accounts, investments, insurance policies and other sources of income.

B) any debts owed by the petitioner.

C) petitioner's financial information, including, income for the last five years, proof of payment of taxes for the last three years, proof of payment of child support or an explanation as to why the petitioner did not make any payment of child support or taxes, and proof of payment of fines or restitution required by court.

D) any letters or references on behalf of petitioner and organizations to which the petitioner belongs, if applicable.

E) jobs that have been denied because of the conviction,

4) The application shall state all previous applications for a CGC filed.

5) The applications shall be signed and notarized.

6) The petitioner shall sign a release that allows PRB or its designee, the Illinois State Police, or DOC to conduct a background check on all petitioners.

7) The cost of filing the petition is to be determined by the courts and PRB. The PRB chairman can waive all or some of the costs of filing the petition based upon indigency or inability to pay the costs of filing the petition.

8) Upon receipt of a CGC application, the petitioner shall ask for a public hearing or a non-public hearing. In the absence of a request, PRB shall place the petitions in non-public hearings. If the petitioner asks for a non-public hearing or does not make any request for a public hearing, PRB, through 3 member panels, shall review the information supplied by petitioner. The hearing conducted by PRB shall not require the presence of the petitioner. If the petitioner requests a public hearing, PRB may
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schedule the hearing at the same time as the executive clemency docket. Only a 3 member PRB panel is required to hear the petition.

9) PRB shall issue a CGC if, after reviewing the information, PRB is convinced that:

A) the person to whom it is to be granted is an eligible offender. In making the determination as to whether the inmate should be issued a CGC, PRB will look at aggravating and mitigating factors.

i) Aggravating factors are the committing offense, including whether anyone was physically or emotionally harmed by the offense; whether the inmate has any other criminal arrests or convictions in the last 3 years; drug or alcohol abuse; and the petitioner's history of violence.

ii) Mitigating factors are whether the inmate has no aggravating factors; education received in DOC or through private schools; certificates received; drug, alcohol or anger management programs completed; a consistent work history; payment of child support (or inability to make payments) and taxes; military service; other social work performed; and letters of support.

B) the relief to be granted by the CGC is consistent with the rehabilitation of the eligible offender.

C) the relief to be granted by the CGC is consistent with the public interest.

c) The term "fully rehabilitated" means that the petitioner has met the requirements of filing the petition, has behaved in the community, has had no new violations, convictions or arrests, and has conducted himself or herself in a manner consistent with helping others and the betterment of the community.

d) PRB shall review the aggravating factors and mitigating factors outlined in subsection (b)(9)(A) and make a subjective decision as to whether the inmate shall receive a CGC based upon the 3 qualifications listed in subsection (b)(9).
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1) **Heading of the Part**: Uniform Penalty and Interest Act

2) **Code Citation**: 86 Ill. Adm. Code 700

3) **Section Number**: Proposed Action:
   - 700.500    Amendment

4) **Statutory Authority**: 35 ILCS 5/911.3

5) **A Complete Description of the Subjects and Issues Involved**: 86 Ill. Adm. Code 700.500(c) currently provides guidance on the order in which the Department will apply a payment that is insufficient to pay the entire liability for tax, penalty and interest for which the payment was made.

Various statutes allow or require the Department to apply overpayments of tax to other liabilities. Section 2505-275 of the Department of Revenue Law of the Civil Administrative Code of Illinois allows the Department to offset an overpayment of one tax against a liability for any other tax it administers and to enter into agreements with the Secretary of the Treasury of the United States to offset an overpayment of Illinois tax against a federal tax liability. IITA Section 911.2 allows the Department to pay income tax overpayments to other states to satisfy taxes owed by the taxpayer to those states. Section 2505-650 of the Department of Revenue Law of the Civil Administrative Code of Illinois provides for applying tax overpayments against delinquent child support obligations of the taxpayer. Section 2505-655 of the Department of Revenue Law of the Civil Administrative Code of Illinois provides for applying tax overpayments against past due court fees. Section 10 of the Illinois State Collection Act of 1986 provides for applying tax overpayments against other liabilities owed to the State.

IITA Section 911.3 states the order in which an income tax overpayment must be applied among these various liabilities if the overpayment is insufficient to pay all of them. This rulemaking expands the payment application ordering rule in 86 Ill. Adm. Code 700.500 to apply the ordering rule in IITA Section 911.3 to all taxes administered by the Department, because no other ordering rule is mandated by any law and using the same ordering rule for all taxes avoids confusion for the Department and for taxpayers.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking amendment contain incorporations by reference?** No
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9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

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

    (217) 782-7055

12) Initial Regulatory Flexibility Analysis:

    A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small business and not-for-profit corporations who have tax overpayments that must be applied against other obligations will know in which order the overpayment will be applied against those liabilities.

    B) Reporting, bookkeeping or other procedures required for compliance: None

    C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2005

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 REVENUE

PART 700
UNIFORM PENALTY AND INTEREST ACT

SUBPART A: SCOPE AND APPLICATION OF THE ACT

Section
700.100 Scope of the Act and this Part
700.110 Application of the Provisions of the Act and this Part

SUBPART B: INTEREST

700.200 Interest Paid and Interest Charged
700.210 Interest Rate Calculation
700.220 Interest Charged Taxpayers
700.230 Interest Paid Taxpayers on Overpayments

SUBPART C: PENALTIES

700.300 Penalty for Late Filing or Failure to File and Penalty for Late Payment of Tax
700.310 Penalty for Failure to File Correct Information Returns
700.320 Penalty for Negligence
700.330 Penalty for Fraud
700.340 Personal Liability Penalty
700.350 Bad Check Penalty

SUBPART D: REASONABLE CAUSE

700.400 Reasonable Cause

SUBPART E: PAYMENT APPLICATION

700.500 Payment Application

AUTHORITY: Implementing the Uniform Penalty and Interest Act [35 ILCS 735], and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].
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SUBPART E: PAYMENT APPLICATION

Section 700.500 Payment Application

a) Payments received from a taxpayer shall be applied against the outstanding liability of the taxpayer, or to an agreed portion of the outstanding portion of the outstanding liability, in the following order: the principal amount of the tax, then penalty, and then interest. (Section 3-9 of the Act)

b) A taxpayer may direct payment to a particular liability at the time payment is made to the Department. If a taxpayer has multiple liabilities to the Department, either based upon multiple taxes or multiple reporting periods, the taxpayer should identify the liability to which payment is to be directed.

c) In the absence of direction from the taxpayer as to which of a taxpayer's outstanding liabilities payment is to be made, the Department will direct payments made by taxpayers to the oldest outstanding liability first, with payment directed first to the principal amount of the liability and any excess then directed to penalty and then to interest. If there remain funds after application of the payment to the oldest outstanding liability in the manner noted above, the remainder will be directed to the next oldest liability in the same manner.

d) Section 2505-275 of the Department of Revenue Law of the Civil Administrative Code of Illinois provides that, in the case of overpayment of any tax liability arising from an Act administered by the Department, the Department may credit the amount of the overpayment and any interest thereon against any final tax liability arising under that or any other Act administered by the Department. The Department may enter into agreements with the Secretary of the Treasury of the United States (or his or her delegate) to offset all or part of an overpayment of such a tax liability against any liability arising from a tax imposed under Title 26 of the United States Code. Section 2505-650 of the Department of Revenue Law provides that, upon certification of past due child support amounts from the Department of Healthcare and Family Services, the Department of Revenue may collect the delinquency in any manner authorized for the collection of any tax administered by the Department of Revenue. Section 2505-655 of the Department
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of Revenue Law provides that, upon certification by the Clerk of the Circuit Court of the amounts of delinquent court fees, the Department of Revenue may collect the past due fees by intercepting the tax refund of any person owing the fees. Section 10 of the Illinois State Collection Act of 1986 [30 ILCS 210/10] provides that the Department's Debt Collection Bureau shall serve as the primary debt collecting entity for the State and in that role shall collect debts on behalf of agencies of the State, using all legal authority available to the Department to collect debt referred to it by other agencies of this State. Section 911.2 of the Illinois Income Tax Act (IITA) [35 ILCS 5] provides that a tax officer of another state of the United States may request that the Department withhold payment of a refund claimed by a taxpayer under the IITA for application against a delinquent income tax liability owed by the taxpayer to that state. IITA Section 911.3 provides rules for determining in which order an overpayment will be applied when more than one of these provisions is applicable. Pursuant to these provisions:

1) In the case of an overpayment for which the taxpayer has requested a refund or credit, the Department may credit the overpayment against any final tax liability arising under any Act administered by the Department. The Department will apply any overpayment first to the oldest outstanding final liability arising under the same Act as the overpayment, with payment directed first to the principal amount of the liability and any excess then directed to penalty and then to interest, and shall apply any remaining amount of the overpayment to the next oldest final liability arising under the same Act as the overpayment in the same manner until all such liabilities are paid or the entire amount of the overpayment has been used.

2) Any amount of overpayment remaining after application of subsection (d)(1) shall then be applied first to the oldest unpaid final tax liability arising under any other Act, first to the liability, then to penalty, and then to interest, and then to the next oldest unpaid final tax liability in the same manner, until all such liabilities are paid or the entire amount of the overpayment has been used. For purposes of this subsection (d)(2), the determination of which liability is oldest shall be based upon the date on which payment of the liability was due without regard to due dates for accelerated or estimated payments.

3) Any amount of overpayment remaining after application of subsections (d)(1) and (2) shall be applied in the following order:
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A) against any existing, applicable request to withhold a refund to collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law;

B) against any existing, applicable request to withhold a refund to collect any debt owed to the State;

C) against any existing, applicable request made by the Secretary of the Treasury of the United States, or his or her delegate, to withhold a refund to collect any tax liability arising from Title 26 of the United States Code;

D) against any existing, applicable refund withholding request made pursuant to IITA Section 911.2; and

E) against any existing, applicable request to withhold a refund to collect certified past due fees owed to the Clerk of the Circuit Court as authorized under Section 2505-655 of the Department of Revenue Law.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
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1) **Heading of the Part:** General Provisions for Radiation Protection

2) **Code Citation:** 32 Ill. Adm. Code 310

3) **Section Number:**

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4) **Statutory Authority:** Implementing and authorized by Section 40/9 of the Radiation Protection Act of 1990 [420 ILCS 40]

5) **Effective date of amendments:** December 16, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** Yes

8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.

9) **Notice of Proposal published in the Illinois Register:** July 1, 2005; 29 Ill. Reg. 8964

10) **Has JCAR issued a Statement of Objections to these amendments?** No

11) **Differences between proposal and final version:**
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a) In the Authority Note, after "40", deleted "/9".

b) In Section 310.20, changed "Becquerel" to "Becquere l".

c) In Section 310.20, "Committed dose equivalent"; "Committed effective dose equivalent"; "Depleted uranium"; "Dose equivalent"; "Effective dose equivalent"; "Quality factor" and " Shallow dose equivalent" struck the opening parenthesis and added "or" and struck the closing parenthesis and added ", -".

d) In Section 310.20, struck "(Gy)" and added "or Gy".

e) In Section 310.20, changed "Monitoring" (radiation monitoring or radiation protection monitoring) to "Monitoring" or "( radiation monitoring or radiation protection monitoring)".

f) In Section 310.20, definition of "Radiation Machine", struck "which" and added "that" and in the definition of "Source Materials", struck "which" and added "that".

g) In Section 310.20, "Radiation safety officer", struck a "such" and added "that".

h) In Section 310.20, "Waste handling licensee", struck the first comma and added "or" and after the second "treatment" added a comma.

i) In Section 310.30(b)(1), struck "wherein such" and added "in which those".

k) In Section 310.50(c), struck "Department" and added "Agency".

l) In Section 310.60(b), struck "wherein" and added "in which">

m) In Section 310.70(a), struck "such" and added "the", and struck "such" between "of machines".

n) In Section 310.78(b), struck "40".

o) In Section 310.78, after the "Source Note" by adding the text of "Section 310.80".

p) In Section 310.81(c)(2)(A), changed the added brackets to added parentheses and moved the new text after "Act" and changed "Subchapter" to "Subchapters".
NOTICE OF ADOPTED AMENDMENTS

q) In Section 310.81(c)(2)(C)(iii), struck "such" and added "those".

r) In Section 310.81(d)(1), after "rules" added "[Title 32, Chapter II, Subchapters b and d]".

s) In Section 310.81(d)(1), deleted "[Title 32, Chapter II, Subchapter b and d]".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace any emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of the amendments: This rulemaking adds a new section regarding deliberate misconduct by any licensee, registrant, applicant for a license or certificate of registration, employee of a licensee, registrant or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or registrant or applicant for a license or certificate of registration which would cause them to be in violation of any rule, order, or any term, condition or limitation of any license issued by the Agency. This amendment also clarifies definitions and compares current standards with NRC requirements in compliance with Agreement State status. This amendment also adds updated statutory changes to the rulemaking.

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

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/785-9880 (voice)
217/782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:
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TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 310
GENERAL PROVISIONS FOR RADIATION PROTECTION

Section
310.10 Scope
310.15 Incorporations by Reference
310.20 Definitions
310.30 Exemptions
310.40 Records
310.50 Inspections
310.60 Tests
310.70 Additional Requirements
310.74 Cost Assessment
310.75 Emergency Response Cost Recovery
310.78 Deliberate Misconduct
310.80 Violations
310.81 Policy for Assessment of Civil Penalties
310.82 Procedures for Assessment of Civil Penalties
310.90 Impounding
310.100 Prohibited Uses
310.110 Communications
310.120 Plans and Specifications
310.130 The International System of Units (SI) (Repealed)
310.140 Units of Exposure and Radiation Dose
310.150 Units of Activity
310.APPENDIX A Transport Grouping of Radionuclides (Repealed)
310.APPENDIX B Tests for Special Form Licensed Material (Repealed)
310.APPENDIX C Penalty Assessment Worksheet (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

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Section 310.10 Scope

Except as otherwise specifically provided, this Part applies to all persons who receive, possess, use, transfer, own or acquire any source of radiation within the State of Illinois; provided, however, that nothing in this Part or 32 Ill. Adm. Code 310, 320, 330, 331, 332, 335, 340, 341, 350, 351, 400, 401 and 601 shall apply to any person to the extent such person is subject to regulation by the U.S. Nuclear Regulatory Commission (NRC).

AGENCY NOTE: Attention is directed to the fact that regulation by the State of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of an agreement between the State and the NRC and to 10 CFR 150 of the Commission's regulations.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.15 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection and copying at the Illinois Emergency Management Agency, Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.20 Definitions

As used in 32 Ill. Adm. Code: Chapter II, Subchapters b and d, these terms have the definitions set forth below. Additional definitions used only in a certain Part will be found in that Part.

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator" or "(particle accelerator)" means any machine capable of
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accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 million electron volts (MeV).

"Accelerator-produced material" means any material made radioactive by a particle accelerator.

"Act" means the Radiation Protection Act of 1990 (the Act) [420 ILCS 40].

"Activity" means the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the Bequerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.


"Agreement State" means any state with which the U. S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended (42 USC 2021(b) et seq.).

"Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors or gases.

"Airborne radioactivity area" means any room, enclosure, or operating area in which airborne radioactive material, composed wholly or partly of licensed material, exists in concentrations:

- in excess of the derived air concentrations (DACs) specified in Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; or

- to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

"Annually" means at intervals not to exceed 1 year.
"As low as is reasonably achievable" or "(ALARA)" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in 32 Ill. Adm. Code: Chapter II, Subchapters b and d as is practical consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material) and global fallout as it exists in the environment from the testing of nuclear explosive devices, or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. Background radiation does not include radiation from radioactive materials regulated by the Agency Department.

"Becquerel" or "(Bq)" means the SI unit of activity. One becquerel (Bq) is equal to 1 disintegration (transformation) per second (dps or tps).

"Bioassay" or "(radiobioassay)" means the determination of kinds, quantities or concentrations and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

"Brachytherapy" means a method of radiation therapy in which sealed sources are used to deliver a radiation dose at a distance of up to a few less than 6 centimeters, by surface, intracavitary, intraluminal or interstitial application.

"Brachytherapy source" means a radioactive source, a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose within a distance of a few centimeters.

"Byproduct material" means: (1)

any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material; and (2)
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"The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes but not including underground ore bodies depleted by such solution extraction processes. [420 ILCS 40/4(a-5)]"

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed by him for determining calendar quarters except at the beginning of a year.

"Calibration" means the determination of:

the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

the strength of a source of radiation relative to a standard.


"Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carabolic acid, and glucinic acid).

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Committed dose equivalent" or \( (H_{T,50}) \) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" or \( (H_{E,50}) \) means the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues \( (H_{E,50} = \Sigma w_T H_{T,50}) \).
"Critical group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

"Curie" means a unit of quantity of radioactivity. One Curie (Ci) is that quantity of radioactive material which decays at the rate of $3.7 \times 10^{10}$ disintegrations (transformations) per second (dps or tps).

"Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of property for unrestricted use and termination of the license.

"Declared pregnant woman" means any woman who has voluntarily informed the licensee or registrant her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

"Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years.

"Deep dose equivalent" or "$H_d$" means the dose equivalent at a tissue depth of 1 centimeter (1000 milligrams per square centimeter) from external whole-body exposure.

"Densitometer" means a device that is used to provide a quantitative measurement of the optical density of x-ray film to determine the response of the film to exposure and development.

"Department" means Illinois Department of Nuclear Safety.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Director" means the Director of the Illinois Emergency Management Agency Department of Nuclear Safety. [420 ILCS 40/4(c)]

"Distinguishable from background" means the detectable radioactivity is
"Dose" or "(radiation dose)" means either absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent or total effective dose equivalent.

"Dose equivalent" or "(HT)" means the product of the absorbed dose in tissue, quality factor and all other necessary modifying factors (e.g., a distribution factor for non-uniform deposition) at the location of interest. The units of dose equivalent are the sievert (Sv) and the rem.

"Dose limits" or "(limits)" means the permissible upper bounds of radiation doses established by, or in accordance with, 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to such devices.

"Effective dose equivalent" or "(HE)" means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = ΣWTHT).

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Exposure" means:

the quotient of $dQ$ divided by $dm$ where "$dQ$" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "$dm$" are completely stopped in air. (See Section 310.140 of this Part for SI unit coulomb per kilogram (C/kg) and the special unit
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roentgen (R); or

irradiation by ionizing radiation or radioactive material.

AGENCY NOTE: The context makes clear which is the appropriate definition.

"Exposure rate" means the "exposure" per unit of time, such as roentgen per minute (R/min) and milliroentgen per hour (mR/h).

"External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

"Extremity" means a hand, elbow, arm below the elbow, foot, knee and leg below the knee.

"Eye dose equivalent" or "lens dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 milligrams per square centimeter).

"Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Gray" or "Gy" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (J/kg)(100 rad).

"Healing arts" means the art or science or group of arts or sciences dealing with the prevention and cure or alleviation of human ailments, diseases or infirmities, and has the same meaning as "medicine" when the latter term is used in its comprehensive sense.

"High radiation area" means any area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 rem (1 mSv-0.1 rem) in 1 hour at 30 centimeters from the radiation source or 30 centimeters any source of radiation or from any surface that the radiation penetrates.

"Human use" means the internal or external administration of radiation or
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radioactive materials to human beings.

"Individual" means any human being.

"Individual monitoring" means the assessment of:

Dose equivalent by the use of individual monitoring devices or by the use of survey data; or

Committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed (i.e., DAC-hours). (For the definition of DAC-hours, see 32 Ill. Adm. Code 340.30.)

"Individual monitoring devices" (personnel dosimeter or dosimeter) means devices designed to be worn by a single individual for the assessment of dose equivalent. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), optically stimulated luminescence dosimeters (OSLs), pocket ionization chambers, personal air sampling devices and electronic dosimeters (e.g., silicon diode dosimeters).

"Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Lens dose equivalent" (see "Eye dose equivalent")

"License" means any license issued by the Agency in accordance with 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license issued by the Agency.
"Licensee" means any person who is licensed by the Agency in accordance with 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Licensing State" means any state which has been provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviews state regulations to establish equivalency with the Suggested State Regulations and ascertains whether a state has an effective program for control of naturally occurring or accelerator-produced radioactive material (NARM). The Conference will designate as licensing states those states with regulations for control of radiation relating to, and an effective program for the regulatory control of, NARM.

"Lost or missing source of radiation" means any licensed or registered source of radiation whose location is unknown. This definition includes, but is not limited to, radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a person, other than medical programs, universities, industrial radiography services, or wireline service operations, who is licensed to process, handle, or manufacture radioactive material as unsealed sources in quantities exceeding the quantities specified in Appendix C to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, by a factor of at least $10^7$, or radioactive material as sealed sources in quantities exceeding the quantities specified in Appendix C to 10 CFR 20.1001–20.2401 by a factor of at least $10^{10}$.

"Member of the public" means any individual, except an individual who is performing assigned duties for the licensee or registrant involving exposure to sources of radiation.

"Minor" means an individual less than 18 years of age.

"Monitoring" or "radiation monitoring" or "radiation protection monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

"NARM" means any naturally occurring or accelerator-produced radioactive
material. It does not include byproduct, source, or special nuclear material.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

"Nuclear Regulatory Commission" or "(NRC)" means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for the licensee or registrant involve exposure to sources of radiation. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released as authorized by the Agency Department, from voluntary participation in medical research programs, or as a member of the public.

"Operator" means an individual, group of individuals, partnership, firm, corporation, association, or other entity conducting the business or activities carried on within a radiation installation. [420 ILCS 40/4(d-7)]

"Package" means the packaging, together with its radioactive contents, as presented for transport.

"Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 32 Ill. Adm. Code 341. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding and devices for cooling or absorbing mechanical shocks. The vehicle, tie down system and auxiliary equipment may be designated as part of the packaging.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, or any successor thereto. "Person" also includes a federal entity (and its contractors) if the federal entity agrees to be regulated by the State or as otherwise allowed under federal law. [420 ILCS 40/4(e)]

"Personnel monitoring equipment" (see "Individual monitoring devices").
"Pharmacist" means an individual licensed by the State pursuant to the Pharmacy Practice Act of 1987 [225 ILCS 85] to compound and dispense drugs, prescriptions, and poisons.

"Physician" means an individual licensed to practice a treatment of human ailments by virtue of the Medical Practice Act of 1987 [225 ILCS 60], the Illinois Dental Practice Act [225 ILCS 25] or the Podiatric Medical Practice Act of 1987 [225 ILCS 100], who may use radiation for therapeutic, diagnostic or other medical purposes within the limits of the individual's licensure.

"Protective apron" means any apron made of radiation attenuating materials, at least 0.25 millimeter lead equivalent, that may be used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. Public dose does not include occupational dose, or dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released as authorized by the Department, or from voluntary participation in medical research programs.

"Qualified engineering expert" means any person qualified under the Illinois Architecture Practice Act of 1989 [225 ILCS 305], the Structural Engineering Licensing Act of 1989 [225 ILCS 340] and/or any required combination thereof.

"Quality factor" or "(Q)" means the modifying factor (listed in Section 310.140, Tables 1 and 2 of this Part) that is used to derive dose equivalent from absorbed dose.

"Quarterly" means at intervals not to exceed 3 months.

"Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 ergs per gram or 0.01 joule per kilogram (J/kg) (0.01 Gy).

"Radiation" or "(ionizing radiation)" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, or electromagnetic radiations capable of producing ions directly or indirectly in their passage through matter; but does not include sound or radio waves, or visible infrared or ultraviolet light. [420 ILCS 40/4(f)]
"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

"Radiation dose" (see "Dose").

"Radiation emergency" means the uncontrolled release of radioactive material from a radiation installation which poses a potential threat to the public health, welfare and safety. [420 ILCS 40/4(f-5)]

"Radiation Installation" is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed or used for any purpose [420 ILCS 40/4(g)], except where such radioactive materials or facility are subject to regulation by the NRC.

"Radiation machine" means any device that produces radiation when in use [420 ILCS 40/4(h)], except those which produce radiation only from radioactive materials.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned responsibility by the licensee or registrant.

"Radioactive material" means any solid, liquid, or gaseous substance which emits radiation spontaneously. [420 ILCS 40/4(i)]

"Radioactivity" means the disintegration (transformation) of unstable atomic nuclei by the emission of radiation.

"Radiobioassay" (see "Bioassay").

"Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to the Radiation Protection Act of 1990 [420 ILCS 40] and 32 Ill. Adm. Code 320.10.

"Registration" means registration with the Agency in accordance with 32 Ill. Adm. Code 320.10.
"Regulations of the U.S. Department of Transportation" or "regulations of USDOT" (U.S. DOT) means the regulations in 49 CFR 100-189, revised as of October 1, 2004, exclusive of any subsequent amendments or editions.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

"Research and development" means:

theoretical analysis, exploration, or experimentation; or

the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Residual radioactivity" means radioactivity in structures, materials, soils, groundwater and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site, even if those burials were made in accordance with the provisions of 32 Ill. Adm. Code 340 or the equivalent 10 CFR 20.

"Restricted area" means any area access to which is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to sources of radiation. Restricted area shall not include areas used for residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10^-4 coulombs per kilogram (C/kg). (See "Exposure" and Section 310.140 of this Part.)

"Sealed source" means any device containing radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the
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escape of any radioactive material.

"Sealed source and device registry" means the national registry that contains all the registration certificates generated by the Agency, U.S. Nuclear Regulatory Commission or an Agreement State that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

"Sensitometer" means a device that is used to test the setup and stability of film processing procedures and equipment by providing a standard pattern of light exposure of x-ray film.

"Shallow dose equivalent" or \( (H_s) \), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 milligrams per square centimeter) averaged over an area of 1 square centimeter.

"SI" means the abbreviation for the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

"Source material" means:

- uranium or thorium, or any combination thereof, in any physical or chemical form; or
- ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium or any combination thereof.

Source material does not include special nuclear material.

"Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

"Special form radioactive material" means radioactive material that satisfies the following conditions:

- It is either a single solid piece or is contained in a sealed capsule that can
be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

It satisfies the test requirements specified in 10 CFR 71.75 and 71.77, published January 26, 2004, with corrections published February 10, 2004, revised as of January 1, 1998, exclusive of subsequent amendments or editions, except that special form radioactive material designed or constructed prior to July 1, 1985 need only meet the requirements of 10 CFR 71.75 and 71.77 in effect on June 30, 1983.

"Special nuclear material" means: (1)

plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Agency Department declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2)

any material artificially enriched by any of the foregoing, but does not include source material. [420 ILCS 40/4(l)]

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; U-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them, except source material, in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

\[
\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1
\]

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources
of radiation. Such an evaluation includes, but is not limited to, measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

"Test" means the process of verifying compliance with an applicable regulation.

"Total effective dose equivalent" or "TEDE" means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

"Total organ dose equivalent" or "TODE" means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in 32 Ill. Adm. Code 340.1160(a)(6).

"Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating or refining.

"Unrestricted area" means any area access to which is not controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive material, and any area used for residential quarters. AGENCY NOTE: Licensees or registrants may control access to certain areas for purposes other than radiation protection, but such action does not affect whether the areas are unrestricted areas as defined in this Part.

"Uranium fuel cycle" means the operations of milling of uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity by a light-water-cooled nuclear power plant using uranium fuel and reprocessing of spent uranium fuel to the extent that these activities directly support the production of electrical power for public use. Uranium fuel cycle does not include mining operations, operations at waste disposal sites, transportation of radioactive material in support of these operations and the reuse of recovered non-uranium special nuclear and byproduct materials from the cycle.

"U.S. Department of Energy" means the agency created by the Department of Energy Organization Act (established by P.L. 95-91, 91 Stat. 565, 42 USC 7101 et seq.), to the extent that the Department of Energy, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the
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Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, 88 Stat. 1233 at 1237, 42 USC 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (P.L. 95-91, 91 Stat. 565 at 577-578, 42 USC 7151).

"Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays Gy) in 1 hour at 1 meter from a radiation source or 1 meter of radiation or from any surface that the radiation penetrates.

AGENCY NOTE: For very high doses received at high dose rates, units of absorbed dose (e.g., gray and rad) are appropriate rather than units of dose equivalent (e.g., sievert and rem).

"Waste handling licensee" means a person licensed by the NRC, the Agency Department, an Agreement State or a Licensing State to receive radioactive wastes for storage or treatment, or both storage and treatment, prior to disposal as well as any person licensed to receive radioactive waste for disposal away from the point of generation.

"Week" means 7 consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow or legs above the knee.

"Worker" means any individual engaged in work under a license or registration issued by the Agency Department and controlled by a licensee or registrant, but does not include the licensee or registrant.

"Working level" (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of $1.3 \times 10^5$ MeV of potential alpha particle energy. The short-lived radon daughters are for radon-222: polonium-218, lead-214, bismuth-214 and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212 and polonium-212.

"Working level month" (WLM) means an exposure to 1 working level (WL) for 170 hours. (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)
"Year" means the period of time beginning in January used to determine compliance with the provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the decision to make the change is made not later than December 31 of the previous year. If a licensee or registrant changes a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.30 Exemptions

a) General Provisions – The Agency Department may, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of 32 Ill. Adm. Code: Chapter II, Subchapters b and d as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

b) U. S. Department of Energy Contractors and U. S. Nuclear Regulatory Commission Contractors – Any U. S. Department of Energy contractor or subcontractor and any U. S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this State is exempt from 32 Ill. Adm. Code: Chapter II, Subchapters b and d to the extent that such contractor or subcontractor under his contract receives, possesses, uses, transfers or acquires sources of radiation:

1) Prime contractors performing work for the Department of Energy at U. S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;

2) Prime contractors of the Department of Energy performing research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof;

3) Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and

4) Any other prime contractor or subcontractor of the Department of Energy
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or of the Nuclear Regulatory Commission when the State and the Nuclear Regulatory Commission jointly determine:

A) that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety; and

B) that, the exemption of such contractor or subcontractor is otherwise appropriate.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.50 Inspections

a) Each person shall afford the Agency at all reasonable times opportunity to inspect radiation installations and sources of radiation and the premises and facilities in which those radiation installations and sources of radiation are used or stored.

b) Each person shall make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

c) The Agency is authorized to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this Act and rules and regulations issued thereunder. The Agency may inspect and investigate premises, operations, and personnel and have access to and copy records for the purpose of evaluating past, current, and potential hazards to the public health, workers, or the environment resulting from radiation. Entry into areas under jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative. [420 ILCS 40/27]

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.60 Tests

Each licensee and registrant shall perform upon instructions from the Agency, or shall permit the Agency to perform, such reasonable tests as the Agency...
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deems appropriate or necessary including, but not limited to tests of:

a) sources of radiation;

b) installations in which' sources of radiation are used or stored;

c) radiation detection and monitoring instruments; and

d) other equipment and devices used in connection with utilization or storage of licensed or registered sources of radiation.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.70 Additional Requirements

a) The Agency is authorized to inspect and investigate the premises and operations and personnel of any radiation installation, whether or not the installation is required to be registered or licensed by the Agency, for the purpose of studying and evaluating the health hazard(s) caused by the use and operation of machines and material.

b) The Agency may impose additional requirements upon any licensee or registrant if the Agency deems these requirements to be necessary to minimize the danger to public health and safety or the environment.

c) Nothing in 32 Ill. Adm. Code: Chapter II, Subchapters b and d relieves the licensee or registrant from complying with other applicable Federal, State or local requirements governing any toxic, hazardous, medical or any other property of these materials or products containing these materials.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.74 Cost Assessment

The Agency has authority under the Radiation Protection Act of 1990 [420 ILCS 40] to take actions necessary to abate violations of the Act or any rules or regulations promulgated under the Act and may provide that all or a portion of the cost of such actions be assessed to operators of radiation installations or other persons responsible for the violation or contamination. [420 ILCS 40/36]
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a) The Agency Department may assess all or a portion of the costs incurred to abate violations to responsible operators of radiation installations or other responsible persons. Costs that are assessed shall be based on the Agency's Department's actual response costs, including, but not limited to:

1) Time required by the Agency Department professional staff to coordinate response;

2) Time spent traveling and providing administrative support;

3) Performance or oversight of decontamination activities at properties contaminated with radioactive material;

4) Performance or oversight of confirmatory environmental monitoring;

5) Performance or oversight of treatment, storage, transfer and disposal of sources of radiation;

6) Equipment and supplies; and

7) Contractual support, if any, incurred by the Agency Department.

AGENCY NOTE: These support service costs may include, but are not limited to, rental of specialized equipment, acquisition of additional professional expertise not available within the Agency Department and laboratory fees charged to the Agency Department.

b) Any party affected by an order of the Agency Department assessing cost shall have the right to a hearing before the Agency Department in accordance with 32 Ill. Adm. Code 200.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.75 Emergency Response Cost Recovery

The Agency Department has authority under the Radiation Protection Act of 1990 [420 ILCS 40] to respond to conditions that constitute an immediate threat to health and to assess the costs of its response against the person or persons responsible for the creation or continuation of the threat. If the Agency Department is unable to determine who is responsible for the creation or continuation of the threat, the costs shall be assessed against the owner of the property and shall
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constitute a lien against the property until paid [420 ILCS 40/38(b)].

a) Costs that are assessed shall be based on:

1) The Agency's Department's actual response costs, including, but not limited to:
   
   A) Time required by Agency's Department professional staff to coordinate response;
   
   B) Time spent traveling and providing administrative support;
   
   C) Performance or oversight of decontamination activities at properties contaminated with radioactive material;
   
   D) Performance or oversight of confirmatory environmental monitoring;
   
   E) Performance or oversight of treatment, storage and disposal of sources of radiation;
   
   F) Equipment and supplies; and
   
   G) Contractual support, if any, incurred by the Agency's Department.

AGENCY NOTE: These support service costs may include, but are not limited to, rental of specialized equipment, acquisition of additional professional expertise not available within the Agency's Department and laboratory fees charged to the Agency's Department.

2) Costs incurred by other units of government while assisting the Agency's Department, including agencies of the federal government, provided the costs are submitted as follows:

   A) Unless otherwise notified by the Agency's Department, the request for reimbursement must be received by the Agency's Department within 45 days after the assistance is rendered to the Agency's Department or 45 days after the costs are determined, whichever is later, but in any case, not later than one year after the
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Assistance is rendered;

B) The request shall be in writing and shall include documentation justifying costs to be reimbursed; and

C) Reimbursable costs may include, but are not limited to, items specified in subsection (a)(1) of this Section.

b) All reimbursable costs described in a reimbursement request by a governmental unit are subject to approval by the Director of the Agency Department. The Agency Department may request additional information in support of the requested reimbursement.

c) If a request by a governmental unit for costs is denied, or denied in part, the Agency Department shall notify the requesting governmental unit of the decision within 30 days after the date the request was submitted.

d) Each bill for emergency response costs assessed under this Section shall identify the items claimed and the costs related to each. Payment is due to the Agency Department within 45 days after receipt of the bill.

e) After all emergency response costs have been paid by the responsible parties, the Agency Department shall pay governmental units based on approved requests.

f) Any person assessed costs under this Section shall have the right to a hearing before the Agency Department provided a written request for a hearing is served on the Agency Department within 10 days after notice of the assessment. In the absence of receipt of a request for a hearing, the affected party shall be deemed to have waived the right to a hearing [420 ILCS 40/38(b)]. Hearings shall be conducted in accordance with 32 Ill. Adm. Code 200.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.78 Deliberate Misconduct

a) Any licensee, registrant, applicant for a license or certificate of registration, employee of a licensee, registrant or applicant, or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or registrant or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, registrant, contractor or
subcontractor any components, equipments, materials or other goods or services that relate to a licensee's, registrant's or applicant's activities in this Part shall not:

1) Engage in deliberate misconduct that causes, or would have caused if not detected, a licensee, registrant or applicant to be in violation of any statute, regulation, limitation on any license issued by the Agency, or order; or

2) Deliberately submit to an Agency licensee, an applicant, or a licensee's, certificate holder's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Agency.

b) A person who violates subsection (a)(1) or (a)(2) of this Section may be subject to enforcement action as provided in Section 45 of the Radiation Protection Act of 1990.

c) For the purposes of subsection (a)(1) of this Section, deliberate misconduct by a person means an intentional act or omission that the person knows:

1) Would cause a licensee, registrant or applicant to be in violation of any regulation, statute or order, or any term, condition or limitation of any license issued by the Agency; or

2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, registrant, applicant, contractor or subcontractor.

(Source: Added at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.80 Violations

a) Any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this Act, or who violates any determination or order of the Agency promulgated pursuant to the Act is guilty of a Class A misdemeanor; provided each day during which violation continues shall constitute a separate offense; and in addition thereto, such person may be enjoined from continuing such violation as hereinafter provided. [420 ILCS 40/39(a)]

b) A person who knowingly makes a false material statement to an Agency
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Department employee during the course of official Agency business or in an application for accreditation, certification, registration or licensure under the Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense. [420 ILCS 40/39(b)(1)]

c) A person who knowingly alters a credential, certificate, registration, or license issued by the Agency for the purpose of evading a requirement of the Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense. [420 ILCS 40/39(b)(2)]

d) Whenever the Agency believes upon examination of records or inspection and examination of a radiation installation or a radiation source as constructed, operated, or maintained that there has been a violation of any of the Agency's rules or regulations promulgated pursuant to the Act, the Agency, in addition to taking other enforcement action, may impose a civil penalty, not to exceed $10,000 for such violation, provided each day the violation continues shall constitute a separate offense. [420 ILCS 40/36]

e) The penalties provided herein shall be recoverable in an action brought in the name of the people of the State of Illinois by the Attorney General. [420 ILCS 40/39(c)]

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.81 Policy for Assessment of Civil Penalties

a) Civil penalties shall be assessed in accordance with the provisions of this Section and Section 310.82 of this Part.

b) A civil penalty will be assessed whenever the Agency, based on consideration of the factors set forth in subsection (c) of this Section, determines that a civil penalty is appropriate and issues a Preliminary Order and Notice of Opportunity for Hearing, in accordance with 32 Ill. Adm. Code 200.60.

c) Factors to be Considered in Assessing Civil Penalties

1) The Agency shall consider the factors contained in subsection (c)(2) of this Section to determine whether a penalty should be assessed, as provided in subsection (d) of this Section, and the amount of the penalty. However, if the Agency has by rule established the
amount to be assessed for a particular violation, the Agency shall assess the penalty as specified in that rule without regard to the factors contained in subsection (c)(2) of this Section.

AGENCY NOTE: For an example of a rule that establishes the amount of the civil penalty to be assessed, see 32 Ill. Adm. Code 401.170, which specifies the civil penalties to be assessed for violations of the Agency's radiologic technologist accreditation requirements.

2) The factors to be considered by the Agency are:

A) History of Previous Violations. The Agency shall consider the person's history of previous violations of the Radiation Protection Act of 1990, the Agency's rules promulgated under that Act (Title 32, Chapter II, Subchapters b and d), and licenses issued pursuant to the Act. Each prior violation will be considered without regard to whether it led to a civil penalty assessment. A prior violation shall not be considered, however, if the notice or order relating to the prior violation is the subject of pending administrative or judicial review, or if the time to request such review or to appeal any administrative or judicial decision relating to the prior violation has not expired. The Agency shall not consider a prior violation if a Preliminary or Final Order pertaining to that prior violation has been vacated. The Agency shall not consider previous violations that occurred more than 6 years prior to the issuance of the Preliminary Order.

B) Severity of the Violation. The Agency shall consider the severity of the violation, including, but not limited to, actual or potential contamination of the environment resulting from the violation and any actual or potential hazard to the health or safety of the public or to workers, resulting from the violation. When evaluating the severity of the violation, the Agency may also consider the impact that the violation has on the Agency's ability to determine compliance with requirements established by statute, regulation or license condition.

C) Culpability. The Agency shall consider whether the person to whom the Preliminary Order was issued was negligent in
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causing, allowing, or failing to correct the violation, condition, or practice which was cited in the Preliminary Order. The Agency Department shall also consider:

i) whether the violation was intentional or inadvertent;

ii) whether the violation was allowed to continue once identified;

iii) whether actions were taken to correct or mitigate the violation and the timeliness of those actions;

iv) whether the violation was voluntarily reported to the Agency Department.

d) Determination of the Amount of Penalty; Assessment of Separate Violations for Each Day

1) The Agency Department may assess a civil penalty not to exceed ten thousand dollars ($10,000) per violation for each day the violation continues. In determining whether to make such an assessment, the Agency Department shall consider the factors listed in subsection (c) of this Section; however, if the Agency's Department's rules (Title 32, Chapter II, Subchapters b and d) specify the amount of the civil penalty to be assessed for a particular violation, the Agency Department shall assess the civil penalty in that amount so specified, without consideration of the factors listed in subsection (c) of this Section.

2) When determining the amount of penalty, the Agency Department shall consider each day of a continuing violation to be a separate violation. Accordingly, the Agency Department may assess a separate penalty, in accordance with this Section and Section 310.82 of this Part, for each day that a violation continues.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.82 Procedures for Assessment of Civil Penalties

a) Issuance of Assessment
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1) If the Agency Department assesses a civil penalty pursuant to Section 310.81(b) of this Part, it shall do so by issuing a Preliminary Order and Notice of Opportunity for Hearing pursuant to 32 Ill. Adm. Code 200.

2) The Preliminary Order and Notice of Opportunity for Hearing shall contain, for each violation alleged, the proposed civil penalty to be assessed.

b) Payment of Assessment

Unless a hearing has been requested by the deadline specified in the Preliminary Order and Notice of Opportunity for Hearing, within 30 days after issuance of the Preliminary Order becomes final, the person upon whom the penalty was assessed shall pay the penalty in full.

c) Procedures for Hearing

1) The person to whom the Preliminary Order and Notice of Opportunity for Hearing was issued may appeal the imposition of the civil penalty by submitting a written request for a hearing in accordance with 32 Ill. Adm. Code 200.70.

2) Upon receiving such a request for a hearing, the Agency Department shall conduct a public hearing regarding the finding of violation or the penalty assessment, in accordance with the provisions of 32 Ill. Adm. Code 200.

3) After the hearing is held, the Director shall issue a Final Order in accordance with 32 Ill. Adm. Code 200.230.

d) Final Assessment and Payment of Penalty

1) If the person to whom a Preliminary Order and Notice of Opportunity for Hearing is issued fails to request a hearing, the Preliminary Order shall become a final order of the Agency Department and the penalty assessed shall become due and payable within 30 days from the date issuance of the Preliminary Order.

2) If either the person to whom a Preliminary Order and Notice of Opportunity for Hearing is issued requests judicial review of a final order of the Agency Department, the penalty assessed in accordance with Section 310.81(c) of this Part shall not be payable until completion of the review.
3) The civil penalties provided in this Section shall be recoverable in an action brought in the name of the people of the State of Illinois by the Attorney General.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.110 Communications

All communications and reports concerning these regulations, and applications filed thereunder, should be addressed to the Agency Department at its office, located at 1035 Outer Park Drive, Springfield, Illinois, 62704.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)

Section 310.120 Plans and Specifications

The Director may require the user of any new or altered radiation installation to prepare plans and specifications of the proposed installation and submit them to the Agency Department for review and approval prior to starting construction or operation.

(Source: Amended at 29 Ill. Reg. 20748, effective December 16, 2005)
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1) **Heading of the Part:** Financial Assurance Requirements

2) **Code Citation:** 32 Ill. Adm. Code 326

3) **Section Numbers:**

   - 326.10 Amendment
   - 326.20 Amendment
   - 326.40 Amendment
   - 326.50 Amendment
   - 326.60 Amendment
   - 326.70 Amendment
   - 326.80 Amendment
   - 326.90 Amendment
   - 326.10 Amendment
   - 326.11 Amendment
   - 326.120 Amendment
   - 326.130 Amendment
   - 326.150 Amendment
   - 326.170 Amendment
   - 326.180 Amendment
   - 326.190 Amendment
   - Appendix A Amendment
   - Appendix B Amendment
   - Appendix C Amendment
   - Appendix D Amendment
   - Appendix E Amendment

4) **Statutory Authority:** Implementing and authorized by Section 40/9 of the Radiation Protection Act of 1990 [420 ILCS 40]

5) **Effective Date of Amendments:** December 16, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.
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10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

   1) In Section 326.40, definition "Educational institution", struck "which" and added "that".

   2) In Section 326.40, definition "Financial assurance arrangement" struck "such" and added "those".

   3) In Section 326.40, definition "Reclamation", struck "such" and added "so".

   4) In Section 326.80(c), struck "which' and added "that".

   5) In Section 326.90(c)(1), struck a "Such" and added "these".

   6) In Section 326.90(d), struck "Appendix" and added "Appendices".

   7) In Section 326.90(e), struck "Appendix" and added "Appendices".

   8) In Section 326.100(a), Agency Note, changed "Licensees information" to "licensee's information".

   9) In Section 326.100(f), struck "such" and added "this"

10) In Section 326.130(b), struck "For hospitals, in" and added "In".

11) In Section 326.130(b)(5), struck "such" and added "that".

12) In Section 326.150(e), struck "such" and added "that".

13) In Section 326.190(b), changed "November" to "December".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency amendments currently in effect? No
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14) Are there any amendments pending on this Part? No

15) Summary and purpose of the amendments: This rulemaking changes the language in the rule to require financial assurance for sources greater than 1 Ci, exempts those less than or equal to 1 Ci, and changes a cross-reference in Section 326.130(b)(1)(C).

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

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois  62704

217/785-9880 (voice)
217/782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:
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TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 326
FINANCIAL ASSURANCE REQUIREMENTS

Section
326.10  Purpose and Scope
326.20  Incorporations by Reference
326.30  General Provisions
326.40  Definitions
326.50  Exemptions
326.60  Low-Level Radioactive Waste Licensees
326.70  Financial Assurance Amounts
326.80  Cost Estimates and Reclamation Plans
326.90  Financial Assurance Arrangements
326.100 Surety Bond as a Financial Assurance Arrangement
326.110 Letter of Credit as a Financial Assurance Arrangement
326.120 Certificate of Deposit as a Financial Assurance Arrangement
326.130 Self-Guarantee as a Financial Assurance Arrangement
326.140 Financial Tests for Self-Guarantee
326.150 Parent Company Guarantee as a Financial Assurance Arrangement
326.160 Financial Tests for Parent Company Guarantee
326.170 Modification or Replacement of Financial Assurance Arrangements
326.180 Drawing on Financial Assurance Arrangements
326.190 Implementation
326.APPENDIX A  Quantities of Material for Major Possessor Determination
326.APPENDIX B  Wording for Surety Bonds
326.APPENDIX C  Wording for Letters of Credit
326.APPENDIX D  Wording for Certificates of Deposit
326.APPENDIX E  Wording for Self-Guarantee Documents
326.APPENDIX F  Wording for Parent Company Guarantee Documents

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

Section 326.10 Purpose and Scope

This Part prescribes financial assurance requirements to ensure that specific and general licensees will have sufficient funds to reclaim properties. This Part identifies which licensees must file financial assurance arrangements and describes arrangements acceptable to the Illinois Emergency Management Agency (Agency). This Part is not applicable to licensees subject to 32 Ill. Adm. Code 332 that have financial assurance arrangements on file with the Agency.

AGENCY NOTE: Throughout this Part, the use of the term "licensee" includes applicants for licensure and existing licensees.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.20 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection and copying at the Agency Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.40 Definitions

As used in this Part, the following definitions apply:

"Anniversary date" means the last day of the month for each year the license is in effect, which corresponds to the last day of the month in which the license expires.

AGENCY NOTE: For purposes of this Part, the 28th will be considered the last day of the month of February.

"Category III irradiator" means a gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), the sealed source is shielded at all times, and human access to the sealed source and the volume undergoing irradiation is physically restricted in its design configuration and proper mode of use.
"Category IV irradiator" means a controlled human access gamma irradiator in which the sealed source is contained in a storage pool (usually containing water), is fully shielded when not in use and is exposed within a radiation volume that is maintained inaccessible during use by an entry control system.

"Cost estimate" means a licensee's evaluation of the costs associated with reclamation of a facility or site. Cost estimates are subject to Agency Department review and approval.

"Educational institution" means a non-profit organization that has as its primary purpose the advancement of knowledge in one or more specific fields and which is accredited by the North Central Association Commission on Schools or the North Central Association Commission on Institutions of Higher Education.

"Financial assurance arrangement" means a method of guaranteeing that reclamation costs will be paid. A financial assurance arrangement consists of a surety bond, an irrevocable letter of credit, a certificate of deposit, a self-guarantee, a parent company guarantee, a combination of those arrangements or other financial arrangements approved in writing by the Agency Department.

"General licensee" means a person who possesses a generally licensed device as defined in this Section.

"Generally licensed devices" means gauges containing sealed sources equal to or greater than 37 MBq (1 mCi) of radioactive material possessed by persons licensed pursuant to 32 Ill. Adm. Code 330.220(b).

AGENCY NOTE: Although general licensees may be required to provide information to the Agency Department, only general licensees possessing the types of devices defined in this Section are required to address financial assurance requirements specified in this Part.

"Major possessor" means a person who is licensed to use, possess or store radioactive material with half-lives greater than 275 days, as either sealed or unsealed sources in quantities exceeding the quantities specified in Appendix A of this Part.

"Reclamation" means decontamination of facilities and sites and disposal of radioactive material such that the property is returned to a state that no longer presents a radiological health or safety hazard to persons, or a threat to the
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environment.
AGENCY NOTE: For purposes of this Part, the term "reclamation" includes, but is not limited to, those activities necessary to decommission the licensed facility to allow termination of the license.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.50 Exemptions

a) Radioactive material possessed or used by the following persons is not subject to this Part:

1) All State, local or other government entities;

   AGENCY NOTE: For purposes of this Section, "government entities" shall not include federal or State contractors, or non-governmental recipients of government funds.

2) Educational institutions;

3) Licensees not authorized to possess or use radioactive material in Illinois;

4) Licensees with no permanent storage or use facilities in Illinois; or


b) Radioactive material in the following forms is not subject to this Part:

1) Radioactive material for use in gas chromatographs, benchtop analytical laboratory instruments, x-ray fluorescence analyzers, static elimination devices and self-luminous exit signs, except for radionuclides with atomic numbers greater than 82 in quantities greater than 3.7 GBq (100 mCi);

2) Sealed sources for exchange into a device, provided that the sources do not concurrently remain in the licensee's possession for more than 30 days;

3) Radioactive noble gases;
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4) Depleted uranium prefabricated as shielding;
5) Radioactive material with half-lives of 30 days or less;
6) Radioactive material with atomic numbers less than or equal to 82 in the form of sealed sources, in quantities less than or equal to 37 MBq (1 mCi) per source, not to exceed 185 MBq (5 mCi) total; or
7) Radioactive material with atomic numbers greater than or equal to 83 in the form of sealed sources, in quantities less than or equal to 185 kBq (50 µCi) per source, not to exceed 37 MBq (1 mCi) total.

C) Except for low-level radioactive waste licensees as described in Section 326.60 of this Part, radioactive material with half-lives greater than 30 days, but less than or equal to 275 days, in the following forms, is not subject to this Part:

1) Radioactive material in forms other than noble gases or sealed sources, in quantities not to exceed 37 GBq (1 Ci) per nuclide; and
2) Radioactive material in the form of a sealed source.

D) Except for licensees specified in Sections 326.60 and 326.70 of this Part, specific or general licensees that possess or use radioactive material with half-lives greater than 275 days, in the form of sealed sources in quantities less than or equal to 37 GBq (1 Ci) per source, but not exceeding the applicable quantities specified in Appendix A of this Part, are not subject to this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.60 Low-Level Radioactive Waste Licensees

Waste handling licensees as defined in 32 Ill. Adm. Code 310.20, such as low-level radioactive waste treatment or disposal facilities, or centralized low-level radioactive waste storage licensees, shall submit a reclamation plan and a cost estimate for approval by the Agency as described in Section 326.80 of this Part and secure a financial assurance arrangement for the amount specified in the Agency-approved cost estimate. Such licensees shall ensure the cost estimate encompasses all radioactive material authorized by the license, except for radioactive material specifically exempted in Section 326.50(b) of this Part. The exemptions specified in Section 326.50(c) and (d) of this Part are not applicable to the licensees described in this Section.
Section 326.70  Financial Assurance Amounts

Unless specified in Section 326.60 of this Part, the following specific and general licensees are required to secure a financial assurance arrangement in the amounts described in this Section:

a) Unless specified in subsection (b) of this Section, for specific or general licensees that possess or use radioactive material in the form of sealed sources in quantities greater than or equal to 37 GBq (1 Ci) per source, but not exceeding the quantities specified in Appendix A of this Part, the minimum amount is $25,000.

b) The following licensees shall submit a reclamation plan as described in Section 326.80 of this Part, and a cost estimate for approval by the Agency Department. When approved, the licensee shall secure a financial assurance arrangement in the amount specified on the Agency Department-approved cost estimate:

1) Major possessors as defined in Section 326.40 of this Part;

2) Persons who possess radioactive material in forms other than noble gases or sealed sources with half-lives greater than 30 days, but less than or equal to 275 days, in quantities exceeding 37 GBq (1 Ci) per nuclide;

3) Persons who possess source material tailings or sludge;

4) Category III or IV irradiators;

5) Persons who use particle accelerators to manufacture radionuclides for distribution to other licensees or customers; and

6) Facilities owned or operated by the U.S. Department of Energy (DOE) or its contractors or subcontractors, if subject to the regulatory control of the Agency Department. Contractors or subcontractors of DOE who may perform work that is not a direct function of the DOE operation are subject to other financial assurance requirements as provided for in this Part.

AGENCY NOTE: Licensees subject to 32 Ill. Adm. Code 332 are required to meet the financial assurance requirements specified in 32 Ill. Adm. Code 332.260, and therefore
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are not subject to this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.80 Cost Estimates and Reclamation Plans

Licensees required to perform cost estimates, as described in Sections 326.60 and 326.70(b) of this Part, shall submit reclamation plans and cost estimates to the Agency Department for approval prior to securing financial assurance arrangements. The Agency Department shall allow material described in Section 326.50(b) of this Part as exempt to be excluded from all financial assurance estimates. For licensees described in Section 326.70(b) of this Part, the material described in Section 326.50(c) of this Part shall also be excluded from financial assurance estimates. The plan shall describe reclamation actions to be taken in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. The Agency Department shall consider, but is not limited to, the following in approving the reclamation plan and cost estimates, and determining the financial assurance requirements for each individual licensee:

a) The probable extent of contamination resulting from the use or possession of radioactive material as authorized by a radioactive material license at the facility or site, and the probable cost of removal of such contamination in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330. This consideration shall encompass probable contaminating events associated with the licensee's methods or modes of operation and shall be based on factors such as quantities, half-lives, radiation hazards and toxicities, and chemical and physical forms;

b) The extent of possible offsite property damage caused by operation of the facility or site that is to be reclaimed;

c) The cost and method of removal and disposal of radioactive material and sources of radiation which are or would be generated, stored, processed, or otherwise present at the facility or site; and

d) The costs and methods involved in reclamation of the site or the property on which the facility is located and all other properties contaminated by radioactive material authorized by the license.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.90 Financial Assurance Arrangements
This Section The following rules shall apply to applicants for specific licenses and general and specific licensees required to secure and file financial assurance arrangements with the Agency:

a) The licensee or applicant shall choose from the financial assurance arrangements specified in Sections 326.100 through 326.160 of this Part.

b) The wording of the financial assurance arrangement shall contain the provisions described in this Part, and may use wording identical to the wording of the corresponding arrangement in Appendices B through F of this Part. No additional restrictions may be placed on any financial assurance arrangement filed with the Agency.

c) The financial assurance arrangements shall be provided to and filed with the Agency in a dollar amount greater than or equal to either the amount specified in Section 326.70(a) of this Part or the amount specified in a cost estimate approved by the Agency.

1) The cost estimate and reclamation plan shall be reviewed annually by the licensee or when required by the Agency. Financial assurance arrangements may be reviewed annually by the Department. The Agency may require the licensee to adjust the value of the cost estimate and reclamation plan to recognize any increases or decreases resulting from inflation or deflation, changes in engineering plans, activities performed and any other condition affecting costs for reclamation. Such changes will be required to ensure that sufficient financial assurance amounts are provided and retained to cover cost of reclamation.

2) When a change in activities not requiring a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the licensee shall notify the Agency within 60 days after the increase. This notification shall include submission of revised cost estimates and reclamation plans for review and approval. Upon approval of the revised cost estimates, the licensee may be required to file additional financial assurance arrangements at least equal to this increase.
3) When a license amendment would raise the cost estimate for reclamation to an amount greater than the amount of the financial assurance arrangements currently filed with the Agency, the amendment shall be held until the required financial assurance arrangements are established.

4) When the current reclamation cost estimate decreases, upon the written request of the licensee, and provided that the decrease is verified by the Agency, the Agency shall authorize the reduction in the amount of financial assurance required for the facility to the amount of the approved amended reclamation cost estimate. Upon such occurrence, the Department shall allow the licensee to substitute new arrangements in the reduced amount for the arrangements on file.

AGENCY NOTE: If the license is amended and the licensee no longer meets the criteria for needing a reclamation plan (specified in Section 326.60 or 326.70(b) of this Part), but still must secure financial assurance in accordance with Section 326.70(a) of this Part, the licensee may substitute new arrangements to meet the requirements of Section 326.70(a) of this Part.

5) For specific licensees, the term of the financial assurance arrangement shall be for the period from issuance of the license until termination of the license by the Agency in accordance with 32 Ill. Adm. Code 330.

6) For general licensees, the term of the financial assurance arrangement shall be for the period from approval of the financial assurance arrangement until all devices covered by the instrument have been properly transferred or disposed of.

7) The Agency will release all financial assurance arrangements not drawn upon pursuant to Section 326.180 of this Part, upon termination of the license, or if the license is amended so that the license is no longer subject to financial assurance requirements of Section 326.60 or 326.70 of this Part.

d) Use of Multiple Financial Assurance Arrangements. The licensee or applicant may utilize more than one financial assurance arrangement per facility to satisfy the requirement specified in this Section. Unless agreed otherwise by the
Agency Department and the licensee, financial assurance arrangements may be drawn upon in any order determined by the Agency Department. The arrangements shall be as specified in Appendices Appendix B-F of this Part, and the sum value of all arrangements shall be in an amount greater than or equal to either the amount specified in Section 326.70(a) of this Part, or the amount specified in a cost estimate approved by the Agency Department.

e) Use of a Financial Assurance Arrangement for Multiple Facilities or Multiple Licensees at a Facility. The licensee or applicant may use a financial assurance arrangement specified in Appendices Appendix B-F of this Part to meet the requirements of this Section for more than one license, or more than one facility owned or operated in Illinois. The arrangement submitted to the Agency Department shall include a list indicating, for each facility, the registration numbers, license numbers, names, addresses and amounts of funds for reclamation assured by the arrangement. The amount of funds available through the financial assurance arrangement shall not be less than the aggregate total of the funds that would be available if separate arrangement had been filed and maintained for each license or facility. If more than one license exists for a facility, the amount of funds for each license shall be specified.

f) Any applicant or licensee who fulfills the requirements of this Section by obtaining a surety bond or letter of credit will be deemed to be without the required financial assurance arrangement in the event of commencement of bankruptcy proceedings involving the issuing institution, or a suspension, termination, or revocation of the authority of the institution issuing the surety bond or letter of credit to issue such instruments. The applicant or licensee shall establish other Agency Department-approved financial assurance arrangements within 30 days after such an event.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.100 Surety Bond as a Financial Assurance Arrangement

If a licensee elects to satisfy the requirement of Section 326.90 of this Part by securing a surety bond, that bond shall conform to the following requirements:

a) The surety company issuing the bond shall be among those listed as acceptable sureties or reinsurers on federal bonds in Circular 570 of the U.S. Department of the Treasury, entitled "Surety Companies Acceptable On Federal Bonds", revised to the latest revision issued by the U.S. Department of the Treasury as of July 1, 2005.
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AGENCY NOTE: For the licensee's information, Circular 570 entitled "Surety Companies Acceptable On Federal Bonds" is updated every July and the Agency will accept the bonds on the latest July revision date issued by the U.S. Department of the Treasury.

b) The wording of the surety bond shall contain the substantive provisions specified in Appendix B of this Part. Additional conditions may be agreed to between the licensee and the surety company so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Agency.

c) The surety bond shall guarantee that:

1) Funds will be available, whenever required by the Agency, in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330;

2) The surety waives notification of amendments to licenses, applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on the bond; and

3) The licensee shall provide alternative financial assurance arrangements as specified in Section 326.170 of this Part prior to cancellation or termination of the bond.

d) Under the terms of the bond, the surety shall become liable on the bond obligation when the licensee fails to perform as guaranteed by the bond. Upon a determination by the Agency that the licensee has failed to so perform, the surety shall perform reclaiming to the satisfaction of the State as guaranteed by the bond or shall pay the amount of the penal sum to the Agency.

e) The penal sum of the bond shall be in an amount, after considering other financial assurance arrangements established in accordance with this Part, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) The surety may cancel the bond by sending notice of cancellation by certified mail, return receipt requested, to the licensee and to the Agency.
Cancellation shall not occur, however, during the 180 days beginning on the date after receipt of the notice of cancellation by both the licensee and the 
AgencyDepartment, as evidenced by the return receipts. During this period, the licensee shall obtain replacement financial assurance as provided in Section 326.170 of this Part. Upon notification by the AgencyDepartment that the licensee has failed to obtain replacement financial assurance approved by the AgencyDepartment, the surety shall pay the amount of the penal sum to the AgencyDepartment.

g) The surety shall not be liable for the deficiency in the performance of reclaiming after the AgencyDepartment has determined satisfactory reclaiming has occurred.

h) The licensee may terminate the bond by sending written notice to the surety, provided, however, that no such notice shall become effective until the surety receives written authorization from the AgencyDepartment for the termination of the bond. The AgencyDepartment shall not authorize termination until the licensee has either provided replacement financial assurance arrangements in accordance with Section 326.170 of this Part or the AgencyDepartment has determined satisfactory reclaiming has occurred.

i) The bond shall be accompanied by a letter from the licensee referring to the bond by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the surety bond.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.110 Letter of Credit as a Financial Assurance Arrangement

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing an irrevocable standby letter of credit, the irrevocable standby letter of credit supporting this guarantee shall conform to the following requirements:

a) The institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or Illinois agency.

b) The wording of the letter of credit shall contain the substantive provisions specified in Appendix C of this Part. Additional conditions may be agreed to
between the licensee and the issuing institution so long as no requirement of this Part nor required provision is avoided or altered and no additional requirements are placed on the Agency Department.

c) The letter of credit shall be accompanied by a letter from the licensee referring to the letter of credit by number, issuing institution and date and providing the following information: the radioactive material license numbers, names and addresses of the facilities and the amount of funds for each license assured for reclaiming of the facilities by the letter of credit.

d) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The expiration date of the letter of credit shall be automatically extended for a period of at least 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Agency Department by certified mail, return receipt requested, of a decision not to extend the expiration date. The 180 days will begin on the date when both the licensee and the Agency Department have received the notice, as evidenced by the return receipts. Unless released by the Agency Department, the Agency Department may draw upon this letter of credit if a new letter of credit or other financial assurance arrangements, approved in writing by the Agency Department, is not furnished 60 days prior to the expiration date. The Agency Department may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the Agency Department.

e) The letter of credit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) The Director may draw on the letter of credit as provided in Section 326.180 of this Part. The Director may also draw on the letter of credit if the licensee does not establish alternative financial assurance arrangements as specified in Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.120 Certificate of Deposit as a Financial Assurance Arrangement
NOTICE OF ADOPTED AMENDMENTS

If a licensee elects to satisfy the financial assurance requirements of Section 326.90 of this Part by filing a certificate of deposit, the certificate of deposit supporting this guarantee shall conform to the following requirements:

a) The institution issuing the certificate of deposit shall be an entity that has the authority to issue certificates of deposit and whose certificate of deposit operations are regulated and examined by a federal or State agency.

b) The wording of the certificate of deposit shall contain the substantive provisions specified in Appendix D of this Part. Additional provisions may be included so long as no requirement of this Part is avoided or altered and no additional requirements are placed upon the Agency.

c) The certificate of deposit shall be accompanied by a letter from the licensee referring to the certificate of deposit by number, issuing institution and date and providing the following information:

1) The letter shall reference the radioactive material license numbers, names and addresses of the facilities and the amount of funds assured for reclaiming of the facilities by the certificate of deposit; and

2) The letter shall state that the licensee conveys, transfers, pledges, hypothecates and grants a security interest in and to the certificate to the Agency.

d) The certificate of deposit shall be issued for a period of at least 1 year. The certificate of deposit shall provide that the certificate will be automatically renewed for a period of 1 year unless, at least 180 days before the current expiration date, the issuing institution notifies both the licensee and the Agency by certified mail, return receipt requested, of a decision not to renew the certificate. The 180 days will begin on the date when both the licensee and the Agency have received notice, as evidenced by the return receipts. Unless the Agency provides written notice to the issuing institution that the licensee has provided substitute financial assurance acceptable to the Agency as specified in Section 326.170 of this Part, the issuing institution shall, upon maturity of a certificate of deposit that is not being renewed, pay to the Agency the amount deposited under the certificate of deposit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any extension, the Director may draw on the certificate of deposit if the licensee
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has failed to provide alternative financial assurance arrangements as specified in Section 326.170 of this Part and obtain written approval of such arrangements from the Agency Department.

e) The certificate of deposit shall be in an amount, after considering other financial assurance arrangements that are in place, sufficient to provide the necessary funds in order to terminate the license in accordance with the requirements of 32 Ill. Adm. Code 330.

f) Interest accrued on a certificate of deposit shall be paid directly to the licensee and shall not automatically increase the amount of any certificate of deposit on file with the Agency Department.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.130 Self-Guarantee as a Financial Assurance Arrangement

a) Except as provided in subsection (b) of this Section, each licensee electing to use self-guarantee as a financial assurance arrangement shall be subject to the following requirements:

1) The company shall not have a parent company holding majority control of its voting stock.

2) The company shall have at least one class of equity securities registered under the Securities Exchange Act of 1934.

3) The company shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.140 of this Part. At a minimum, documentation shall include the following:

   A) A self-guarantee, as described in Appendix E of this Part, signed by the company's chief executive officer;

   B) A letter, as described in Appendix E of this Part, from the company's chief executive officer;

   C) A letter, as described in Appendix E of this Part, from the company's chief financial officer demonstrating that the company
NOTICE OF ADOPTED AMENDMENTS

passes the financial tests specified in Section 326.140 of this Part;

D) The company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and

E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

4) The company's independent certified public accountant shall have compared the data used by the company in the financial test, which is required to be derived from the independently audited year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the company shall inform the Agency Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

5) For commercial companies that issue bonds, the licensee shall provide notice in writing to the Agency Department within 20 days after publication of a change by the rating service if, at any time, the company's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's. If the company's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirement of Section 326.140(a) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.

6) After the initial financial test, the company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and provide the documents specified in subsection (a)(3) of this Section.

7) If the licensee no longer meets the requirements of the applicable financial tests in Section 326.140 of this Part, the licensee shall send notice to the
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AgencyDepartment of its intent to establish alternative financial assurance. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the licensee no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of such fiscal year.

8) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the AgencyDepartment. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted and approved by the AgencyDepartment or the AgencyDepartment confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

9) The guarantee and financial test provisions specified in Section 326.140 of this Part shall remain in effect until the AgencyDepartment has terminated the license, or until a replacement financial assurance arrangement is accepted by the AgencyDepartment in accordance with Section 326.170 of this Part.

b) InFor hospitals, in lieu of the requirements in subsection (a) of this Section, a hospital seeking to use self-guarantee as a financial assurance arrangement may satisfy the following requirements:

1) The hospital shall submit a financial test, independently audited financial statements, and other documents demonstrating that it passes the financial tests prescribed in Section 326.140(c) of this Part. At a minimum, documentation shall include the following:

A) A self-guarantee, as described in Appendix E, signed by the chief executive officer of the hospital;

B) A letter, as described in Appendix E, from the hospital's chief executive officer;

C) A letter, as described in Appendix E, from the hospital's chief financial officer, demonstrating that the hospital passes the financial tests specified in Section 326.140(c)(b) of this Part;

D) The hospital's audited financial statements for the most recently
NOTICE OF ADOPTED AMENDMENTS

completed fiscal year, including an independent auditor's report on the financial statements;

E) An independent auditor's special report, as described in Appendix E of this Part, stating that the certified public accountant has compared the amounts specified in the chief financial officer's letter with the corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

2) The hospital's independent certified public accountant shall have compared the data used by the licensee in the financial test, which is required to be derived from the independently audited year-end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Agency Department within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the licensee no longer passes the test.

3) For hospitals that issue bonds, if at any time the hospital's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing to the Agency Department within 20 days after publication of a change by the rating service. If the hospital's most recent bond issuance ceases to be rated in any category A or above by both Standard and Poor's and Moody's, the licensee no longer meets the requirements of Section 326.140(b) of this Part. The licensee shall secure replacement financial assurance arrangements in accordance with Section 326.170 of this Part.

4) After the initial financial test, the hospital shall, within 90 days after the close of each succeeding fiscal year, repeat passage of the test and provide the documents specified in subsection (b)(1) of this Section.

5) If the hospital no longer meets the requirements of the applicable financial tests in Section 326.140(c) of this Part, the licensee shall send notice to the Agency Department of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the
notices such fiscal year.

6) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the Agency. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the Agency confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

7) The guarantee and financial test provisions specified in Section 326.140(b) of this Part shall remain in effect until the Agency has terminated the license or until a replacement financial assurance arrangement is accepted by the Agency in accordance with Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.150 Parent Company Guarantee as a Financial Assurance Arrangement

Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall be subject to the following requirements:

a) The guarantor shall be a direct parent holding more than 50 percent of the voting stock of the licensee. A company shall not serve as a guarantor to a division of the company.

b) Each licensee electing to use a parent company guarantee as a financial assurance arrangement shall submit a financial test, independently audited financial statements and other documents demonstrating that it passes the financial tests prescribed in Section 326.160 of this Part. At a minimum, documentation shall include all of the following:

1) A parent company guarantee agreement, as described in subsection (b)(5) of Appendix F of this Part, signed by the chief executive officer of the guarantor, that states in part that, if the licensee fails to conduct required reclamation activities, the parent company shall either:
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A) Conduct the required activities, or

B) Pay the guaranteed amount to the Agency as directed by the Director;

2) A copy of corporate bylaws, a letter, or other evidence indicating that the guarantor is the parent company of the licensee and that the guarantor has majority control of the licensee's voting stock;

3) A letter, as described in subsection (a) of Appendix F of this Part, from the parent company's chief executive officer;

4) A letter from the parent company's chief financial officer, as described in subsection (a) of Appendix F of this Part, demonstrating that the company passes the financial tests specified in Section 326.160 of this Part;

5) The parent company's audited financial statements for the most recently completed fiscal year, including an independent auditor's report on the financial statements; and

6) An independent auditor's special report, as described in subsection (d) of Appendix F of this Part, stating that the certified public accountant has compared the amounts specified in the letter from the chief financial officer with corresponding amounts in the audited year-end financial statements, and found no reason to believe that the amounts in the letter from the chief financial officer need to be adjusted.

c) The parent company's independent certified public accountant shall have compared the data used by the parent company in the financial test, which shall be derived from the independently audited year end financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform the Agency within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the parent company no longer passes the test.

d) After the initial financial test, the parent company shall repeat passage of the test within 90 days after the close of each succeeding fiscal year, and shall provide the documentation specified in subsection (b) of this Section.
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e) If the licensee's parent company no longer meets the requirements of the applicable financial tests in Section 326.160 of this Part, the licensee shall send notice to the AgencyDepartment of its intent to establish alternative financial assurance as specified in Section 326.170 of this Part. The notice shall be sent by certified mail, return receipt requested, within 90 days after the end of the fiscal year for which the year end financial data demonstrates that the parent company no longer meets the financial test requirements. The licensee shall secure alternative financial assurance within 120 days after the end of that fiscal year.

f) The guarantee shall remain in force unless the licensee sends notice of cancellation by certified mail, return receipt requested, to the AgencyDepartment. Cancellation shall not occur until either a replacement financial assurance arrangement is submitted in accordance with Section 326.170 of this Part or the AgencyDepartment confirms that the licensee has performed reclaiming in accordance with 32 Ill. Adm. Code 330.

g) The guarantee and financial test provisions specified in Section 326.160 of this Part shall remain in effect until the AgencyDepartment has terminated the license, or until a replacement financial assurance arrangement is accepted by the AgencyDepartment in accordance with Section 326.170 of this Part.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)

Section 326.170 Modification or Replacement of Financial Assurance Arrangements

The licensee shall not substitute, modify or replace financial assurance arrangements filed with the AgencyDepartment without prior approval by the AgencyDepartment.

a) Substitute or replacement financial assurance arrangements shall meet the requirements of this Part.

b) Proposed modifications to financial assurance arrangements already filed with the AgencyDepartment shall be submitted in writing to the AgencyDepartment for approval.

c) Existing financial assurance arrangements shall not be released by the AgencyDepartment until the proposed modifications or replacement financial assurance arrangements have been approved and filed in accordance with Section 326.90 of this Part.
Section 326.180 Drawing on Financial Assurance Arrangements

If a licensee fails to perform required reclamation activities or fails to obtain substitute or replacement financial assurance arrangements approved by the Agency, the Agency will exercise its rights under the applicable financial assurance arrangement. Notice of the Agency's action shall be provided to the licensee at the address on file with the Agency.

Section 326.190 Implementation

The following procedures shall apply in implementing this Part:

a) No new specific licenses shall be issued by the Agency after June 1, 2000, unless all financial assurance requirements have been addressed as specified in this Part.

b) For specific licenses issued after December 1, 2005, financial assurance arrangements shall be based upon the activity authorized on a specific radioactive material license. All specific licensees with anniversary dates on and between June 1, 2000 and September 30, 2000 shall submit, prior to October 1, 2000, the amount of financial assurance specified in Section 326.70 of this Part, or a reclamation plan and cost estimate for approval by the Department, or updates to financial assurance arrangements currently on file.

c) All specific licensees with anniversary dates between October 1, 2000 and May 31, 2001 shall submit, prior to their anniversary date, the amount of financial assurance specified in Section 326.70 of this Part, or a reclamation plan and cost estimate for approval by the Department, or updates to financial assurance arrangements currently on file.

cd) All specific licensees shall review their cost estimate and reclamation plans at the time of renewal or when there is a change to the radiation safety program that would impact the amount of financial assurance on file with the Agency.
de) Financial assurance arrangements for generally licensed devices shall be due within 90 days from the date of notification by the Agency Department.

e) Unless the arrangement is required to be revised for another reason, previously issued financial assurance arrangements do not have to be revised specifically to substitute the Illinois Emergency Management Agency for Illinois Department of Nuclear Safety, its predecessor agency (or to substitute Agency for Department).

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
### Section 326. APPENDIX A  Quantities of Material for Major Possessor Determination

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NOTICE OF ADOPTED AMENDMENTS

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# NOTICE OF ADOPTED AMENDMENTS

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NOTICE OF ADOPTED AMENDMENTS

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When a combination of nuclides is involved, the limit for the combination shall be derived as follows: For each nuclide, the licensee shall determine the ratio between the quantity authorized on the license and the quantity established in this Appendix A for the form of the material (sealed source or unsealed material). If the sum of the ratios for all nuclides is greater than one, then the licensee shall post financial assurance arrangements.

AGENCY NOTE: Possession of special nuclear material (Plutonium, Uranium-233 and Uranium-235) is limited to quantities not sufficient to form a critical mass as defined in 32 Ill. Adm. Code 310.20.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

Section 326. APPENDIX B  Wording for Surety Bonds

A surety bond guaranteeing funds for reclamation, as specified in 32 Ill. Adm. Code 326.100, shall contain the following provisions, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

SURETY BOND

Date bond executed:

Effective date:

Principal: [legal name and business address of licensee]

Type of organization: [insert "individual," "partnership" or "corporation"]

State of incorporation:

Surety(ies): [Name(s) and business address(es)]

License number(s), name, address and reclamation cost for each facility guaranteed by this bond:

Total penal sum of bond: $ _____

Surety's bond number:

KNOW ALL PERSONS BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto, are firmly bound to the Illinois Emergency Management Agency Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704 (hereinafter called Agency Department), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

WHEREAS said Principal is required, under the Radiation Protection Act of 1990, to have a license in order to receive, possess, store and use radioactive material at the facility identified above; and

WHEREAS said Principal is required to provide financial assurance for reclamation as a condition of the license;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully perform reclamation, whenever required to do so, of each facility for which this bond guarantees funds for reclamation, to the satisfaction of the Director, Illinois Emergency Management Agency Department, in accordance with acceptable practices for protection of health and safety pursuant to all applicable laws, statutes, rules and regulations, as such laws, statutes, rules and regulations may be amended;

OR, if the Principal shall provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, and obtain the written approval of such assurance from the Illinois Emergency Management Agency Department, within 90 days after the date notice of cancellation is received by both the Principal and the Agency Department from the Surety(ies), then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described hereinafore.

Upon notification by the Agency Department that the Principal has been found in violation of the reclamation requirements of the Agency Department, for a facility for which this bond guarantees funds for performance of reclamation, the Surety(ies) shall pay the reclamation cost amount guaranteed for the facility to the Agency Department as directed by the Director.

Upon notification by the Agency Department that the Principal has failed to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 and obtain written approval of such assurance from the Agency Department during the 120 days following receipt by both the Principal and the Director of a notice of cancellation of the bond, the Surety(ies) shall pay the amount guaranteed for the facility(ies) to the Agency Department as directed by the Director.

The Surety(ies) hereby waive(s) notification of amendments to licenses, applicable laws, statutes, rules and regulations and agree(s) that no such
amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the licensee and to the Agency Department; provided, however, that cancellation shall not occur during the 180 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Agency Department, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Agency Department.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this SURETY BOND and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies).

PRINCIPAL

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

CORPORATE SURETY(IES)

[Name and address]

State of incorporation:

Liability limit: $ _____
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

[Signature(s)]

[Below each signature, type or print that person's name and title]

Corporate seal:

[For every co-surety, provide signature(s), corporate seal and other information in the same manner as for the Surety above.]

Bond premium: $ _____

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
Section 326. Appendix C  Wording for Letters of Credit

A letter of credit, as specified in 32 Ill. Adm. Code 326.110, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

IRREVOCABLE STANDBY LETTER OF CREDIT

Director       Date:_____________
Illinois Emergency Management Agency
Department of Nuclear Safety

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [licensee's name and address] up to the aggregate amount of [in words] U.S. dollars $ _____, available upon presentation of:

A) Your sight draft, bearing reference to this letter of credit No. _____; and

B) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Illinois Radiation Protection Act of 1990."

This letter of credit is effective as of [date] and shall expire on [date at least 1 year later], but such expiration date shall be automatically extended for a period of [at least 1 year] on [date] and on each successive expiration date, unless, at least 180 days before the current expiration date, we notify both you and [licensee's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. Unless released by the Illinois Emergency Management Agency Illinois Department of Nuclear Safety (hereinafter called AgencyDepartment), the AgencyDepartment may draw upon this letter of credit if a new letter of credit or other financial assurance arrangement approved in writing by the AgencyDepartment is not furnished 60 days prior to the expiration date. The AgencyDepartment may delay the drawing if the issuing institution grants an extension of the term of this letter of credit. During the last 30 days of any extension, the Director may draw on this letter of credit if the licensee has failed to provide an alternative financial assurance arrangement approved in writing by the AgencyDepartment. [Financial institution] shall give immediate notice to
[licensee] and the Agency Department of any notice received or action filed alleging (1) the insolvency or bankruptcy of [financial institution] or (2) any violations of regulatory requirements that could result in suspension or revocation of [financial institution's] charter or license to do business. The financial institution also shall give immediate notice if [financial institution], for any reason, becomes unable to fulfill its obligation under this letter of credit.

Whenever this letter of credit is drawn on under and in compliance with the terms of the letter of credit, we shall duly honor such draft upon its presentation to us within 30 days, and we shall pay the amount of the draft to the Agency Department in accordance with your instructions.

Each draft must bear on its face the clause: "Drawn under Letter of Credit No. _____, dated _____, and the total of this draft and all other drafts previously drawn under this letter of credit does not exceed [fill in amount]."

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, or the Uniform Commercial Code].

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
Illinois Register

Illinois Emergency Management Agency

Notice of Adopted Amendments

Section 326. Appendix D  Wording for Certificates of Deposit

A certificate of deposit, as specified in 32 Ill. Adm. Code 326.120, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CERTIFICATE OF DEPOSIT

[Name and address of financial institution]
Certificate of Deposit [insert date]
No. _____ [insert $ amount]

[Licensee name and address] has deposited not subject to check [spell out dollar amount] Dollars [insert numerical value $_____] payable to the Illinois Emergency Management Agency Department of Nuclear Safety (hereinafter called the Agency Department) [insert number of months] months after date, upon presentation of this certificate properly endorsed. The funds are deposited for the purpose of providing financial assurance for the cost of reclamation as required by 32 Ill. Adm. Code 326. Accordingly, this certificate shall be renewed automatically unless (a) [financial institution] receives written notice from the Agency Department of (1) the default of [licensee] on these obligations, (2) the termination of the facility license, or (3) the substitution of another financial assurance arrangement; or (b) [financial institution] provides a minimum of 180 days written notice of its decision not to renew as provided in the Agency Department's rules. In the event the Agency Department notifies [financial institution] that [licensee] has not complied with its reclamation obligations under the Agency Department's rules or its obligation to provide replacement financial assurance acceptable to the Agency Department, [financial institution] shall pay the amount deposited to the Agency Department.

[Financial institution] waives all rights of lien which it has or might have against this certificate.

The deposit documented in this certificate is insured by the Federal Deposit Insurance Corporation.

___________________________
(Cashier)

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
Section 326.APPENDIX E   Wording for Self-Guarantee Documents

a) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**CHIEF EXECUTIVE OFFICER**

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]'). This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of $__________.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

**CHIEF FINANCIAL OFFICER**

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship," "partnership," or "corporation"]'). This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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This firm guarantees, through the self-guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

<table>
<thead>
<tr>
<th>Name of Facility</th>
<th>Location of Facility</th>
<th>Cost Estimate or 326.70 Amounts</th>
</tr>
</thead>
</table>

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.140 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test applicable to licensee from subsection (c), (d) or (e) of this Appendix.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

b) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

SELF-GUARANTEE

Self-guarantee made this [date] by [name and address of licensee], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "licensee," to the Illinois Emergency Management Agency Department of Nuclear Safety (hereinafter called the Agency Department).

Recitals
NOTICE OF ADOPTED AMENDMENTS

1) The licensee has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the licensee has a Board of Directors, insert the following: "Licensee has approval from its Board of Directors to enter into this guarantee."]

2) This guarantee is being issued to comply with regulations issued by the Agency Department, pursuant to the Radiation Protection Act of 1990. The Agency Department has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].

4) The licensee meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.140 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.

5) Reclamation activities as used in this Appendix E below refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified in this Appendix E above.

6) The licensee guarantees to the Agency Department that it will:

A) Carry out the required reclamation activities as required by 32 Ill. Adm. Code 330; or

B) Upon written notification from the Agency Department, pay the reclamation cost amount guaranteed for the facility(ies) to the Agency Department as directed by the Director.

7) The licensee shall submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the licensee's fiscal year.
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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8) If, at the end of any fiscal year before termination of this guarantee, the licensee fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Agency Department that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the licensee shall provide such financial assurance.

9) The licensee shall notify the Agency Department promptly if the ownership of the licensee is transferred and shall maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Agency Department.

10) The licensee, as well as its successors and assigns, agrees to remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Agency Department-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 32 Ill. Adm. Code 326.

11) All bound parties shall be jointly and severally liable for all litigation costs incurred by the Agency Department in any successful effort to enforce this guarantee.

12) The licensee shall remain bound under this guarantee for as long as the licensee must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the licensee may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.

13) If the licensee fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the licensee shall make full payment under this guarantee.

14) The licensee expressly waives notice of acceptance of this guarantee by the Department.

14.5) If the licensee files financial reports with the U.S. Securities and Exchange
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Commission, then it shall promptly submit them to the Agency during each year in which this guarantee is in effect.

I hereby certify that the content of this guarantee is true and correct to the best of my knowledge.

Effective date: ____________

[Name of licensee]
[Signature of chief executive officer or equivalent]
[Below the signature, type or print that person's name and title]
Signature of witness or notary: __________________________

c) Financial test documentation for self-guarantee for a commercial company issuing bonds:

1) Current reclaiming and decommissioning cost estimates or certified amounts

   A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee $ ____________

   B) Total reclaiming cost estimates and certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $ ____________

   C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) $ ____________

   Total for line 1 $ ____________

2) Current bond rating of most recent unsecured issuance of this firm

   Rating ____________

   Name of rating service __________________________
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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3) Date of issuance of bond _______________________

4) Date of maturity of bond _______________________

5)* Tangible net worth** (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) $ __________

6)* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $ __________

7) Is line 5 at least 10 times line 1? □ Yes □ No

8) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9

9) Is line 6 at least 10 times line 1? □ Yes □ No

10) Is rating specified on line 2 "A" or better □ Yes □ No

11) Does the licensee have at least one class of equity securities registered under the Securities Exchange Act of 1934? □ Yes □ No

* Denotes figures derived from financial statements.
** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

d) Financial test documentation for commercial companies that have no outstanding rated bonds:

1) Current reclaiming and decommissioning cost estimates or certified amounts
NOTICE OF ADOPTED AMENDMENTS

A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee

$ __________

B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees

$ __________

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA)

$ __________

Total for line 1

2)* Total liabilities (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4)

$ __________

3)* Tangible net worth**

$ __________

4)* Net worth

$ __________

5)* The sum of net income plus depreciation, depletion and amortization

$ __________

6)* Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States)

$ __________

7) Is line 3 greater than $10 million, or at least 10 times line 1, whichever is greater

[ ] Yes [ ] No
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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8) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 9
   ☐ ☐

9) Is line 6 at least 10 times line 1?
   ☐ ☐

10) Is line 5 divided by line 2 greater than 0.15?
    ☐ ☐

11) Is line 2 divided by line 4 less than 1.5?
    ☐ ☐

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

e) Financial test documentation for self-guarantee for hospitals (Complete either Alternative 1 or Alternative 2):

   Alternative 1

   1) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this institution

      Rating  ______________________

      Name of rating service  ______________________

   2) Date of issuance of bond  ______________________

   3) Date of maturity of bond  ______________________

   4) Is the rating specified on line 1 "a" or better  Yes ☐ No ☐

   Alternative 2

   1) Current reclaiming and decommissioning cost estimates or certified amounts
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A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this self-guarantee $ __________

B) Total reclaiming cost estimates and certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $ __________

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) $ __________

Total for line 1 $ __________

2) Total revenues $ __________
3) Operating revenues $ __________
4) Total expenditures $ __________
5) Total long-term debt $ __________
6) Net fixed assets** $ __________
7) Current assets $ __________
8) Depreciation fund $ __________
9) Current liabilities $ __________

10) Is line 3 at least 100 times line 1? ☐ ☐

Guarantor shall meet each of the following ratios:

11) Is (line 2 minus line 4) divided by line 2 at least 0.04? ☐ ☐
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12) Is line 5 divided by line 6 less than or equal to 0.67? □ □

13) Is (line 7 plus line 8) divided by line 9 at least 2.55? □ □

* Denotes figures derived from financial statements.

** Net fixed assets is defined as fixed assets minus accumulated depreciation.

f) A self-guarantee, as specified in 32 Ill. Adm. Code 326.130 and 326.140, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of [self-guarantor's name] for the year ended [insert date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary. [Self-guarantor's name] has prepared documents to demonstrate its financial responsibility under the Illinois Emergency Management Agency's Department's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert IEMA IDNS license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter with the company's financial statements. In connection therewith, we have:

1) Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the licensee's financial statements for the year ended [date];

2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
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3) Confirmed that the amounts in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and

4) Recomputed the totals and percentages.

Because the procedures in paragraphs subsections (1)-(4) above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

__________________________________________  ____________________________________________
Signature                                          Date

AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER

[Name of self-guarantor]

Year ended [date]

<table>
<thead>
<tr>
<th>Line # in CFO'S Letter</th>
<th>Per Financial Statements</th>
<th>Reconciling Items</th>
<th>Per CFO's Letter</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Total current liabilities</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Long-term debt</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Deferred income taxes</td>
<td>X</td>
<td>XX</td>
</tr>
<tr>
<td></td>
<td>Accrued decommissioning cost included in current liabilities</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total liabilities (less accrued decommissioning cost)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>Net worth</td>
<td>XX</td>
<td></td>
</tr>
</tbody>
</table>


ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Less: Cost in excess of value of tangible assets acquired X
     XX

Accrued decommissioning costs included in current liabilities X

Tangible net worth (plus decommissioning costs) XX

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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Section 326. APPENDIX F  Wording for Parent Company Guarantee Documents

a) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

CHIEF EXECUTIVE OFFICER

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of $________.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

CHIEF FINANCIAL OFFICER

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]
NOTICE OF ADOPTED AMENDMENTS

This firm guarantees, through the parent company guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by subsidiary(ies) of this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

<table>
<thead>
<tr>
<th>Name of Facility</th>
<th>Location of Facility</th>
<th>Cost Estimate or 326.70 Amounts</th>
</tr>
</thead>
</table>

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.160 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test from subsection (c) of this Appendix F.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]
[Below the signature, type or print that person's name and title]
[Date]

b) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

PARENT COMPANY GUARANTEE

Guarantee made this [date] by [name of guaranteeing entity], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "guarantor," to the Illinois Emergency Management Agency Department of Nuclear Safety (hereinafter called the Agency Department), on behalf of our subsidiary [licensee] of [business address].

Recitals
1) The guarantor has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the guarantor has a Board of Directors, insert the following: "Guarantor has approval from its Board of Directors to enter into this guarantee."]

2) This guarantee is being issued to comply with regulations issued by the Agency Department, pursuant to the Radiation Protection Act of 1990. The Agency Department has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].

4) The guarantor meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.160 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.

5) The guarantor has majority control of the voting stock for the following licensee(s) covered by this guarantee. [For each facility, include its license number, name, address and current cost estimates for the specified activities.]

6) Reclamation activities as used in this Appendix F below refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified in this Appendix above.

7) For value received from [licensee], [if the guarantor is a corporation, add "and pursuant to the authority conferred upon the guarantor by ["the unanimous resolution of its directors" or "the majority vote of its shareholders"], a certified copy of which is attached,"] the guarantor guarantees to the Agency Department that if the licensee fails to perform the required reclamation activities as required by 32 Ill. Adm. Code 330, the guarantor shall:
A) Carrying out the required reclamation activities; or

B) Upon written notification from the Agency Department, pay the reclamation cost amount guaranteed for the facility(ies) to the Agency Department as directed by the Director.

8) The guarantor agrees to submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the parent guarantor's fiscal year.

9) The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, it fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Agency Department that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance if [the licensee] has not done so.

10) The guarantor agrees to notify the Agency Department promptly if the ownership of the licensee or parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Agency Department.

11) The guarantor agrees that, within 30 days after it determines that it no longer meets the financial test criteria or it is disallowed from continuing as a guarantor for [the licensee], it shall establish an alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 as applicable, in the name of [licensee] unless [licensee] had done so.

12) The guarantor as well as its successors and assigns shall remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Agency Department-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 32 Ill. Adm. Code 326.

13) The guarantor agrees that all bound parties shall be jointly and severally
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liable for all litigation costs incurred by the Agency in any successful effort to enforce the agreement against the guarantor.

14) The guarantor shall remain bound under this guarantee for as long as [licensee] must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the guarantor may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.

15) The guarantor agrees that if [licensee] fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the guarantor shall provide such alternative financial assurance in the name of [licensee] or make full payment under this guarantee.

16) The guarantor expressly waives notice of acceptance of this guarantee by the Department or by [licensee]. The guarantor also expressly waives notice of amendments or modifications of the reclamation requirements and of amendments or modifications of the license.

16(7) If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Department during each year in which this guarantee is in effect.

I hereby certify that the content of this guarantee is true and correct to the best of my knowledge.

Effective date: ____________________
[Name of guarantor]
[Signature of chief executive officer or equivalent]
[Below the signature, type or print that person's name and title]
Signature of witness or notary: ____________________

c) Financial test documentation for parent company guarantee (Complete either Alternative 1 or Alternative 2):

Alternative 1

1) Current reclaiming and decommissioning cost estimates or certified amounts
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee $ ____________

B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees $ ____________

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) $ ____________

Total for line 1 $ ____________

2) * Total liabilities (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) $ ____________

3) * Tangible net worth** $ ____________

4) * Net worth $ ____________

5) * Current assets $ ____________

6) * Current liabilities $ ____________

7) * Net working capital (line 5 minus line 6) $ ____________

8) * The sum of net income plus depreciation, depletion and amortization $ ____________

9) * Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $ ____________
### NOTICE OF ADOPTED AMENDMENTS

**Guarantor shall meet two of the following three ratios:**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>10)</td>
<td>Is line 3 at least $10 million?</td>
<td>Yes</td>
</tr>
<tr>
<td>11)</td>
<td>Is line 3 at least 6 times line 1?</td>
<td>Yes</td>
</tr>
<tr>
<td>12)</td>
<td>Is line 7 at least 6 times line 1?</td>
<td>Yes</td>
</tr>
<tr>
<td>13)</td>
<td>Are at least 90 percent of the firm's assets located in the United States? If not, complete line 14</td>
<td>Yes</td>
</tr>
<tr>
<td>14)</td>
<td>Is line 9 at least 6 times line 1?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

---

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

### Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

   A) Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee $ ____________

   B) Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self- $ ____________
NOTICE OF ADOPTED AMENDMENTS

C) Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) $ ____________

Total for line 1 $ ____________

2) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this firm

Rating ____________________________

Name of rating service ____________________________

3) Date of issuance of bond ____________________________

4) Date of maturity of bond ____________________________

5) Tangible net worth** (if any portion of estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may add the amount of that portion to this line) $ ____________

6) Total assets in United States (required only if less than 90 percent of firm's assets are located in the United States) $ ____________

7) Is line 5 at least $10 million?  Yes ☐ No ☐

8) Is line 5 at least 6 times line 1?  Yes ☐ No ☐

9) Are at least 90 percent of the firm's assets located in the United States? If not, complete line 10

10) Is line 6 at least 6 times line 1?  Yes ☐ No ☐
NOTICE OF ADOPTED AMENDMENTS

11) Is the rating specified on line 2 BBB or better (if issued by Standard & Poor's) or Baa or better (if issued by Moody's)?

* Denotes figures derived from financial statements.

** Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

d) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER

We have examined the financial statements of [name of parent guarantor] ("Company") for the year ended [insert date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary.

The Company has prepared documents to demonstrate its financial responsibility under the Illinois Emergency Management Agency's Department's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert Agency IDNS license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter with the company's financial statements. In connection therewith, we have:

1) Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the company's financial statements for the year ended [date];

2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;
ILLINOIS EMERGENCY MANAGEMENT AGENCY

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3) Confirmed that the amounts in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and

4) Recomputed the totals and percentages. Because the procedures in paragraphs subsections (1)-(4) above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

Signature

Date

AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER

[COMPANY]

Year ended [date]

<table>
<thead>
<tr>
<th>Line #</th>
<th>Per Financial Statements</th>
<th>Reconciling Items</th>
<th>Per CFO's Letter</th>
</tr>
</thead>
<tbody>
<tr>
<td>in CFO's Letter</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total current liabilities</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Long-term debt</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Deferred income taxes</td>
<td>X</td>
<td>XX</td>
</tr>
<tr>
<td></td>
<td>Accrued decommissioning costs included in current liabilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total liabilities (less accrued decommissioning costs)</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Net worth</td>
<td>XX</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------</td>
<td>----</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Less: Cost in excess of value of tangible assets acquired</td>
<td>X</td>
<td></td>
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<td>Tangible net worth (plus decommissioning costs)</td>
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</table>

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)
# ILLINOIS EMERGENCY MANAGEMENT AGENCY

## NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Standards for Protection Against Radiation

2) **Code Citation:** 32 Ill. Adm. Code 340

3) **Section Numbers:**

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<tr>
<td>340.10</td>
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<td>340.830</td>
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4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

5) Effective date of amendments: December 16, 2005

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the Agency’s headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.


10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

   a) In Section 340.30, struck "As used in this Part".

   b) In Section 340.30, definition of "Air-purifying respirator", changed "(APR)" to "or APR".

   c) In Section 340.30, definition of "Annual limit on intake", struck "(ALI)" and added "or ALI".

   d) In Section 340.30, definition of "Disposable respirator", changed "sorbant" to "sorbent".

   e) In Section 340.30, definition of "EPA identification number", changed "EPA" to "USEPA".

   f) In Section 340.280(c), Agency Note, struck "," and added ", or" after "Radiation".

   g) In Section 340.310(a)(B), struck the period and added ", or".

   h) In Section 340.520(a)(2), struck "and".

   i) In Section 340.630(b)(6), struck "which" and added "that".

   j) In Section 340.630(c), struck "which" and added "that".

   k) In Section 340.810(c), changed "six" to "6".

   l) In Section 340.810(c), struck "The".

   m) In Section 340.810(c), struck "Agency’s regulations" and changed "allows" to "allow".
n) In Section 340.930(f), deleted the italics.

o) In Section 340.1045(d), changed "Identity" to "The identity" and before the period added "shall be recorded".

p) In Section 340.1060(f)(3) changed "EPA" to "USEPA".

q) In Section 340.1160(c), after "Agency" added "forms".

r) In Section 340.1160(c), struck "IDNS".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) **Summary and purpose of the amendments:** This rulemaking clarifies requirements regarding airborne effluents, modifies the required frequency of medical exams for individuals who must wear respiratory protection equipment, and establishes clean-up standards related to the termination of radioactive material licenses. In addition, this Part adopts recent changes implemented by the U.S. Nuclear Regulatory Commission (NRC) to improve low-level radioactive waste manifest information and reporting.

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

   Kevin McClain  
   Chief Legal Counsel  
   Illinois Emergency Management Agency  
   1035 Outer Park Drive  
   Springfield, Illinois 62704

   217/785-9880 (voice)  
   217/782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 340
STANDARDS FOR PROTECTION AGAINST RADIATION

SUBPART A: GENERAL PROVISIONS

Section
340.10  Purpose
340.20  Scope
340.25  Incorporations by Reference
340.30  Definitions
340.40  Implementation

SUBPART B: RADIATION PROTECTION PROGRAMS

Section
340.110  Radiation Protection Programs

SUBPART C: OCCUPATIONAL DOSE LIMITS

Section
340.210  Occupational Dose Limits for Adults
340.220  Compliance with Requirements for Summation of External and Internal Doses
340.230  Determination of External Dose from Airborne Radioactive Material
340.240  Determination of Internal Exposure
340.250  Determination of Prior Occupational Dose
340.260  Planned Special Exposures
340.270  Occupational Dose Limits for Minors
340.280  Dose Equivalent to an Embryo/Fetus

SUBPART D: RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

Section
340.310  Dose Limits for Individual Members of the Public
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<th>Description</th>
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SUBPART F: SURVEYS AND MONITORING

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<tr>
<td>340.520</td>
<td>Conditions Requiring Individual Monitoring of External and Internal Occupational Dose</td>
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<tr>
<td>340.530</td>
<td>Location of Individual Monitoring Devices</td>
</tr>
<tr>
<td>340.540</td>
<td>Calibration of Survey Instruments</td>
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SUBPART G: CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

<table>
<thead>
<tr>
<th>Section</th>
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<tbody>
<tr>
<td>340.610</td>
<td>Control of Access to High Radiation Areas</td>
</tr>
<tr>
<td>340.620</td>
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<td>340.630</td>
<td>Control of Access to Very High Radiation Areas – Irradiators</td>
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SUBPART H: RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

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<thead>
<tr>
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<tbody>
<tr>
<td>340.710</td>
<td>Use of Process or Other Engineering Controls</td>
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<td>340.720</td>
<td>Use of Other Controls</td>
</tr>
<tr>
<td>340.730</td>
<td>Use of Individual Respiratory Protection Equipment</td>
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SUBPART I: STORAGE AND CONTROL OF LICENSED OR REGISTERED SOURCES OF RADIATION

<table>
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<th>Section</th>
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<tr>
<td>340.810</td>
<td>Security and Control of Licensed or Registered Sources of Radiation</td>
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<tr>
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<td>340.830</td>
<td>Control of Volatiles and Gases</td>
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340.920 Posting Requirements
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340.940 Labeling Containers and Radiation Machines
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340.1320 Removal of Radioactive Contamination

340.APPENDIX A Decontamination Guidelines
340.ILLUSTRATION A Radiation Symbol

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].


SUBPART A: GENERAL PROVISIONS

Section 340.10 Purpose

a) This Part establishes standards for protection against ionizing radiation resulting from activities conducted pursuant to licenses or registrations issued by the

b) The requirements of this Part are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so that the total dose to an individual, including doses resulting from all sources of radiation other than background radiation, does not exceed the standards for protection against radiation prescribed in this Part. However, nothing in this Part shall be construed as limiting actions that may be necessary to protect health and safety in an emergency.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.20 Scope

Except as specifically provided in other regulations of the Agency Department, this Part applies to persons licensed or registered by the Agency Department to receive, possess, use, transfer or dispose of sources of radiation pursuant to 32 Ill. Adm. Code: Chapter II, Subchapters b and d. The limits in this Part do not apply to doses due to background radiation, to exposure of patients to radiation for the purpose of medical diagnosis or therapy, to exposure from individuals administered radioactive material and released under 32 Ill. Adm. Code 335 or to voluntary participation in medical research programs.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.25 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection and copying at the Agency Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

AGENCY NOTE: In this Part, the Department has incorporated by reference the appendices to 10 CFR 20, effective as of January 1, 1994. These appendices were originally published at 56 FR 23360–23474 (May 21, 1991). Corrections were published at 56 FR 61352–61353 (December 3, 1991) and an amendment was published at 57 FR 57877–57879 (December 8, 1992). The incorporation includes the 1991 correction and the 1992 amendment.
Section 340.30  Definitions

As used in this Part:

"Air-purifying respirator" or "APR" means a respirator with an air-purifying filter, cartridge or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

"Annual limit on intake" or "ALI" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table 1, Columns 1 and 2 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions.

"Assigned protection factor" or "APF" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly trained and fitted users.

"Atmosphere-supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

"Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carbolic acid, and glucinic acid).

"Class" (lung class or inhalation class) means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W or Y, which applies to a range of clearance half-times: for Class D (Days) of less than 10 days, for Class W (Weeks) from 10 to 100 days, and for Class Y (Years) of greater than 100 days.
"Collector" means a licensee whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor or licensed land disposal facility.

"Consignee" means the designated receiver of a shipment of low-level radioactive waste.

"Constraint" (dose constraint) means a value above which specified licensee actions are required.

"Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

"Derived air concentration" (DAC) means the concentration of a given radionuclide in air, which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work would result in an intake of one ALI. For purposes of this definition, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table 1, Column 3 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions.

"Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the derived air concentration for each radionuclide) and the time of exposure to that radionuclide (expressed in hours). A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

"Disposal container" means a container principally used to confine low-level radioactive waste during disposal operations at a land disposal facility (also see "high integrity container"). Note that, for some shipments, the disposal container may be the transport package.

"Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).
"EPA identification number" means the number received by a transporter following application to the Administrator of USEPA as required by 40 CFR 263.

"Filtering face piece" or "dust mask" means a negative pressure particulate respirator with a filter as an integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

"Fit factor" means a quantitative estimate of the fit of a particular respirator to a specific individual and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

"Fit Test" means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

"Helmet" means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

"Hood" means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

"Inhalation class" (see "classClass").

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

"Lens dose equivalent" or "LDE" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

"Loose-fitting face piece" means a respiratory inlet covering designed to form a partial seal with the face.

"Lung class" (see "classClass").

"Negative pressure respirator (tight fitting)" means a respirator in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.
"Nonstochastic effect" (deterministic effect) means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect.

"Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or another person. Occupational dose does not include doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released under 32 Ill. Adm. Code 335, from voluntary participation in medical research programs or as a member of the public.

"Physical description" means the items called for on NRC Form 541 to describe a low-level radioactive waste.

"Planned special exposure" means an infrequent exposure to radiation, the dose from which is separate from and in addition to the annual occupational dose limits.

"Positive pressure respirator" means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

"Powered air-purifying respirator" or "PAPR" means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

"Pressure demand respirator" means a positive pressure atmosphere-supplying respirator that admits breathing air to the face piece when the positive pressure is reduced inside the face piece by inhalation.

"Public dose" means the dose received by a member of the public from exposure to radiation or to radioactive material released by a licensee or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released under 32 Ill. Adm. Code 335, or from voluntary participation in medical research programs.
"Qualitative fit test" or "QLFT" means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual's response to the test agent.

"Quantitative fit test" or "QNFT" means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

"Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.


"Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

"Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

"Self-contained breathing apparatus" or "SCBA" means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

"Shipping paper" means NRC Form 540 and, if required, NRC Form 540A, which includes the information required by DOT in 49 CFR 172.

"Stochastic effect" (probabilistic effect) means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

"Supplied-air respirator" or "SAR" or "airline respirator" means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

"Tight-fitting face piece" means a respiratory inlet covering that forms a complete seal with the face.
"Uniform Low-Level Radioactive Waste Manifest" or "uniform manifest" means the combination of NRC Forms 540, 541 and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

"User seal check" or "fit check" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

"Waste description" means the physical, chemical and radiological description of a low-level radioactive waste as called for on NRC Form 541.

"Waste processor" means an entity, operating under an Agency, Nuclear Regulatory Commission or Agreement State license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

"Waste type" means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description or a waste sorbed on or solidified in a specifically defined media).

"Weighting factor" \((w_T)\), means the proportion of the risk of stochastic effects resulting from irradiation of an organ or tissue \((T)\) to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of \((w_T)\) are:

<table>
<thead>
<tr>
<th>Organ or Tissue</th>
<th>((w_T))</th>
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</thead>
<tbody>
<tr>
<td>Gonads</td>
<td>0.25</td>
</tr>
<tr>
<td>Breast</td>
<td>0.15</td>
</tr>
<tr>
<td>Red bone marrow</td>
<td>0.12</td>
</tr>
<tr>
<td>Lung</td>
<td>0.12</td>
</tr>
<tr>
<td>Thyroid</td>
<td>0.03</td>
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<tr>
<td>Bone surfaces</td>
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<tr>
<td>Remainder</td>
<td>0.30(^a)</td>
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<tr>
<td>Whole Body</td>
<td>1.00(^b)</td>
</tr>
</tbody>
</table>
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a 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the 
skin and the lens of the eye, that receive the highest doses.

b For the purpose of weighting the external whole-body dose, for adding 
it to the internal dose, a single weighting factor, \( w_T = 1.0 \), has been 
specified.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

**Section 340.40 Implementation**

a) Any existing license condition that is more restrictive than this Part remains in 
force until there is an amendment or renewal of the license.

b) If a license condition exempts a licensee from a provision of this Part in effect 
before January 1, 1994, it also exempts the licensee from the corresponding 
provision of this Part, as revised effective January 1, 1994, until there is an 
amendment or renewal of the license that modifies or removes the condition.

e) If a license condition cites provisions of this Part in effect before January 1, 1994, 
which do not correspond to any provisions of this Part, as revised effective 
January 1, 1994, the license condition remains in force until there is an 
amendment or renewal of the license that modifies or removes the condition.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

**SUBPART B: RADIATION PROTECTION PROGRAMS**

**Section 340.110 Radiation Protection Programs**

a) Each licensee or registrant shall develop, document and implement a radiation 
protection program that ensures compliance with the provisions of this Part. (See 
Section 340.1120 of this Part for recordkeeping requirements relating to these 
programs.)

b) The licensee or registrant shall use, to the extent practicable, procedures and 
engineering controls based upon sound radiation protection principles to achieve 
occupational doses and public doses that are as low as is reasonably achievable 
(ALARA).
c) The licensee shall review, at intervals not to exceed 12 months, the radiation protection program content and implementation.

d) To implement the ALARA requirements of Section 340.110(b) of this Part and notwithstanding the requirements in Section 340.310 of this Part, a constraint on air emissions of radioactive materials to the environment, excluding radon-222 and its daughters, shall be established by licensees so that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent (TEDE) in excess of 0.1 mSv (10 mrem) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the excess as provided in Section 340.1230 of this Part and promptly take appropriate corrective action to ensure against recurrence.

e) The registrant shall review, at intervals not to exceed 1 inspection cycle as specified in 32 Ill. Adm. Code 320.10(c), the radiation protection program content and implementation.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART C: OCCUPATIONAL DOSE LIMITS

Section 340.210 Occupational Dose Limits for Adults

a) The licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures pursuant to Section 340.260 of this Part, to the following dose limits:

1) An annual limit, which is the more limiting of:

   A) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or

   B) The sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

2) The annual limits to the lens of the eye, to the skin and to the extremities which are:
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A) A lens dose equivalent of 0.15 Sv (15 rem), and

B) A shallow dose equivalent of 0.5 Sv (50 rem) to the skin or to any extremity.

b) Doses received in excess of the annual limits, including doses received during accidents, emergencies and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime (see Section 340.260(e) of this Part).

c) The assigned deep dose equivalent and shallow dose equivalent shall be for the portion of the body receiving the highest exposure. The assigned shallow dose equivalent shall be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest dose.

d) The deep dose equivalent, lens dose equivalent and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

e) Derived air concentration (DAC) and annual limit on intake (ALI) values are specified in Table 1 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, and may be used to determine the individual's dose (see Section 340.1160 of this Part) and to demonstrate compliance with the occupational dose limits.

f) Notwithstanding the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity (see footnote 3 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions.)

g) The licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person during the current year (see Section 340.250(a) and (d) of this Part).

AGENCY NOTE: The purpose of this requirement is to ensure that no individual
receives an annual occupational dose in excess of the occupational dose limits set forth in this Section.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

**Section 340.220 Compliance with Requirements for Summation of External and Internal Doses**

**a)** General Requirement. If the licensee is required to monitor individual occupational dose pursuant to both Section 340.520(a) and (b) of this Part, the licensee shall demonstrate compliance with the dose limits by summing external and internal doses. If the licensee or registrant is required to monitor individual occupational dose only pursuant to Section 340.520(a) of this Part or only pursuant to Section 340.520(b) of this Part, then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for summation of external and internal doses pursuant to subsections (b), (c) and (d) of this Section below. The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

**b)** Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

1) The sum of the fractions of the inhalation ALI for each radionuclide; or

2) The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000; or

3) The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factor $w_T$ and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than ten percent of the maximum weighted value of $H_{T,50}$ (i.e., $w_TH_{T,50}$) per unit intake for any organ or tissue.

**c)** Intake by Oral Ingestion. If the occupationally exposed individual receives an
intake of radionuclides by oral ingestion greater than ten percent of the applicable oral ALI, the licensee shall account for this intake and include it in demonstrating compliance with the limits.

d) Intake Through Wounds or Absorption Through Skin. The licensee shall evaluate and, to the extent practicable, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be further evaluated or accounted for pursuant to this subsection.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.230  Determination of External Dose from Airborne Radioactive Material

a) Licensees shall, when determining the dose from airborne radioactive material, include the contribution to the deep dose equivalent, lens dose equivalent, eye dose equivalent and shallow dose equivalent from external exposure to the radioactive cloud (see footnotes 1 and 2 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions).

b) Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.240  Determination of Internal Exposure

a) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee shall, when required pursuant to Section 340.520 of this Part, take measurements of:

1) Concentrations of radioactive materials in air in work areas during conditions of operations; or

2) Quantities of radionuclides in the body after exposure to materials that could result in an intake; or
3) Quantities of radionuclides excreted from the body after exposure to materials that could result in an intake; or

4) Combinations of these measurements.

b) Unless respiratory protective equipment is used, as provided in Section 340.730 of this Part, or the assessment of intake is based on bioassays, the licensee shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

c) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee may:

1) Use that information to calculate the committed effective dose equivalent, and if used, the licensee shall document that information in the individual's record; and

2) Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (e.g., aerosol size distribution or density); and

3) Separately assess the contribution of fractional intakes of Class D, W or Y compounds of a given radionuclide (see Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, to the committed effective dose equivalent).

d) If the licensee chooses to assess intakes of Class Y material using the measurements specified in subsections (a)(2) or (3) of this Section above, the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by Sections 340.1220 or 340.1230 of this Part.

AGENCY NOTE: This delay permits the licensee to make additional measurements basic to the assessments.

e) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours
shall be either:

1) The sum of the ratios of the concentration to the appropriate DAC value (e.g., D, W or Y) from Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, for each radionuclide in the mixture; or

2) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

f) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.

g) When a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:

1) The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in Section 340.210 of this Part and in complying with the monitoring requirements in Section 340.520(b) of this Part;

2) The concentration of any radionuclide disregarded is less than ten percent of its DAC; and

3) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

h) When determining the committed effective dose equivalent, the following information may be considered:

1) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

2) For an ALI (and the associated DAC) determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) (the
stochastic ALI) is listed in parentheses in Table 1 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALI the licensee shall also demonstrate that the limit in Section 340.210(a)(1)(B) of this Part is met.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.250 Determination of Prior Occupational Dose

a) For each individual who may enter the licensee's or registrant's restricted area and is likely to receive, in a year, an occupational dose requiring monitoring pursuant to Section 340.520 of this Part, the licensee or registrant shall determine the occupational radiation dose received during the current year prior to allowing such individual to enter a restricted area. In order to comply with this requirement, a licensee or registrant may accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employers for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual may have received during the current year. To accomplish this, a licensee or registrant may use the NRC Illinois Department of Nuclear Safety (IDNS) Form 5 or submit equivalent information.

AGENCY NOTE: Licensees and registrants also should attempt to obtain the records of cumulative occupational radiation dose.

b) Prior to permitting an individual to participate in a planned special exposure, the licensee shall:

1) Determine the cumulative occupational radiation dose.

A) In order to comply with this requirement, a licensee may accept, as the record of cumulative radiation dose, an up-to-date NRCIDNS Form 4, or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employers (if the individual is not employed by the licensee); and
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B) Obtain reports of the individual's dose equivalent for the time period subsequent to that included in NRCIDNS Form 4, or equivalent, as specified in subsection (b)(1)(A) of this Section above. Such reports shall be signed by the individual and countersigned by an appropriate official(s) of the most recent employer(s) for work involving radiation exposure, or the individual's current employer(s) (if the individual is not employed by the licensee). The information shall be recorded on NRCIDNS Form 5, or equivalent.

2) Determine the internal and external doses from all previous planned special exposures.

3) Determine all doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies.

c) The licensee or registrant shall record the exposure history, as required by subsections (a) and (b) of this Section above, on NRCIDNS Form 4 or 5, or equivalent, as applicable, or other clear and legible record containing all of the information required on that form.

1) The form or record shall show each period in which the individual received occupational exposure to sources of radiation and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing the exposure history. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on the exposure history indicating the periods of time for which data are not available.

2) For the purpose of complying with this requirement, licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed before January 1, 1994. Further, although occupational exposure histories obtained and recorded before January 1, 1994, would not have included effective dose equivalent, such histories may be used in the absence of specific information on the intake of radionuclides by the individual.

d) If the licensee or registrant is unable to obtain a complete record of an individual's
current and previously accumulated occupational dose, the licensee or registrant:

1) When establishing administrative controls pursuant to Section 340.210(g) of this Part for the current year, shall assume that the allowable dose limit for the individual is reduced by 12.5 mSv (1.25 rem) for each calendar quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

2) Shall not authorize the individual to receive any planned special exposures.

e) Records shall be retained in accordance with the requirements of Section 340.1140(a) of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.260 Planned Special Exposures

A licensee may authorize an adult worker to receive doses in addition to, and accounted for separately from, the doses received under the limits specified in Section 340.210 of this Part, provided that each of the following conditions are satisfied:

a) The licensee authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated to result from the planned special higher exposure are unavailable or impractical.

b) The management official of the licensee and employer, if the employer is not the licensee, specifically authorize the planned special exposure, in writing, before the exposure occurs.

c) Before a planned special exposure, the licensee ensures that each individual involved is:

1) Informed of the purpose of the planned operation; and

2) Informed of the estimated doses and associated potential risks and specific radiation levels or other conditions that might be involved in performing the task; and
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3) Instructed in the measures to be taken to keep the dose ALARA considering other risks that may be present.

d) Prior to permitting an individual to participate in a planned special exposure, the licensee ascertains previous doses received during the lifetime of the individual as required by Section 340.250(b) of this Part.

e) Subject to Section 340.210(b) of this Part, the licensee shall not authorize a planned special exposure that would cause an individual's dose from all planned special exposures and all doses in excess of the limits to exceed:

1) The numerical values of any of the dose limits in Section 340.210(a) of this Part in any year; and

2) Five times the annual dose limits in Section 340.210(a) of this Part during the individual's lifetime.

f) The licensee maintains records of the conduct of a planned special exposure in accordance with Section 340.1150 of this Part and submits a written report in accordance with Section 340.1240 of this Part.

g) The licensee records the best estimate of the dose resulting from the planned special exposure in the individual's record and informs the individual, in writing, of the dose within 30 days from the date of the planned special exposure. The dose from planned special exposure need not be considered in controlling future occupational dose of the individual pursuant to Section 340.210(a) of this Part but shall be included in evaluations required by subsections (d) and (e) of this Section above.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.270 Occupational Dose Limits for Minors

The annual occupational dose limits for minors are ten percent of the annual occupational dose limits specified for adult workers in Section 340.210 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.280 Dose Equivalent to an Embryo/Fetus
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a) Except as otherwise provided in subsections (d) and (e) of this Section, the licensee or registrant shall ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). (For recordkeeping requirements, see Section 340.1160(d) of this Part.)

b) The dose equivalent to an embryo/fetus shall be taken as the sum of:

1) The deep dose equivalent to the declared pregnant woman during the entire pregnancy; and

2) The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman during the entire pregnancy.

c) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman so as to satisfy the limit in subsection (a) of this Section above.

AGENCY NOTE: The National Council on Radiation Protection and Measurements report entitled "Recommendations on Limits for Exposure to Ionizing Radiation," NCRP 91, published June 1, 1987, recommends that no more than 0.5 mSv (0.05 rem) of the allowed dose to the embryo/fetus be received during any one month during a declared pregnancy.

d) If the declared pregnant woman has not notified the licensee or registrant of the estimated date of conception, the licensee or registrant shall ensure that the dose equivalent to an embryo/fetus, as specified in subsection (b) of this Section above, due to occupational exposure of the declared pregnant woman does not exceed 0.5 mSv (0.05 rem) per month, during the remainder of the pregnancy. If after initially declaring her pregnancy, a declared pregnant woman advises the licensee or registrant of the estimated date of conception, the dose limits specified in subsections (a) and (e) of this Section shall apply.

AGENCY NOTE: The Agency Department encourages licensees and registrants to explain to declared pregnant workers that providing an estimated date of conception will enable the licensee or registrant to more accurately assess the radiation dose equivalent to the embryo/fetus and assist the licensee or registrant in determining appropriate precautions to be taken for the remainder of the pregnancy.
e) If by the time the woman informs the licensee or registrant of the estimated date of conception the dose equivalent to the embryo/fetus has exceeded 4.5 mSv (0.45 rem), the licensee or registrant shall be deemed to be in compliance with subsection (a) of this Section above if the additional dose equivalent to the embryo/fetus as specified in subsection (b) of this Section above does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART D: RADIATION DOSE LIMITS FOR INDIVIDUAL MEMBERS OF THE PUBLIC

Section 340.310 Dose Limits for Individual Members of the Public

a) Each licensee or registrant shall conduct operations so that:

1) The dose in any unrestricted area from external sources, exclusive of the dose contributions from patients administered radioactive material and released in accordance with 32 Ill. Adm. Code 335, does not exceed 0.02 mSv (0.002 rem) in any one hour; and

2) The total effective dose equivalent to individual members of the public from a radiation machine does not exceed:

   A) 5 mSv (0.5 rem) in any year at any location within a facility where a radiation machine was installed before January 1, 1994, and the use of the radiation machine does not change on or after January 1, 1994; or

   B) 1 mSv (0.1 rem) in any year at any location within a facility where a radiation machine is installed or where the radiation machine or its use changes on or after January 1, 1994.

AGENCY NOTE: It is the Agency's intent to allow registrants using radiation machines in facilities designed to the 5 mSv (0.5 rem) limit to continue to use the 5 mSv (0.5 rem) total effective dose equivalent limit for a member of the public. This includes locations where the intensity of the radiation machine is not increased beyond the design basis, the type of radiation machine use is not changed and the type of
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3) The total effective dose equivalent to individual members of the public from a licensed operation does not exceed 1 mSv (0.1 rem) in any year, exclusive of the dose contribution from: a licensee's disposal of radioactive material into sanitary sewerage in accordance with Section 340.1030, does not exceed 1 mSv (0.1 rem) in any year.

A) Background radiation;

B) Any medical administration the individual has received;

C) Exposure to individuals administered radioactive material and released in accordance with 32 Ill. Adm. Code 335;

D) Voluntary participation in medical research programs; and

E) A licensee's disposal of radioactive material into sanitary sewerage in accordance with Section 340.1030 of this Part.

b) A licensee may apply for prior Agency authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). This application shall include the following information:

1) Demonstration of the need for and the expected duration of operations in excess of the limit in subsection (a)(3) of this Section above;

2) The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and

3) The procedures to be followed to maintain the dose ALARA.

c) Prior to allowing a member of the public to enter a restricted area, the licensee or registrant shall give instructions on radiation hazards and protective measures to that individual.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.320 Compliance with Dose Limits for Individual Members of the Public
a) The licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas. In addition, licensees shall survey radioactive materials in effluents released to unrestricted areas. These surveys are to demonstrate compliance with the dose limits for individual members of the public in Section 340.310 of this Part.

b) A licensee or registrant shall show compliance with the annual dose limit in Section 340.310 of this Part by:

1) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

2) Demonstrating that:

   A) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Table 2 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; and

   B) If an individual were continuously present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

c) Upon approval from the Agency, the licensee may adjust the effluent concentration values in Table 2 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, for members of the public, to take into account the actual physical and chemical characteristics of the effluents (e.g., aerosol size distribution, solubility, density, radioactive decay equilibrium and chemical form).

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART E: TESTING FOR LEAKAGE OR CONTAMINATION OF SEALED SOURCES

Section 340.410 Testing for Leakage or Contamination of Sealed Sources

a) The licensee in possession of any sealed source shall assure that:
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1) Each sealed source, except as specified in subsection (b) of this Section below, is tested for leakage or contamination and the test results that confirm that the sealed source is not leaking or contaminated are received before the sealed source is put into use, unless the licensee has a certificate from the transferor indicating that the sealed source was tested within 6 months for beta and gamma emitting sources, or within 3 months for sources designed to emit alpha particles, before transfer to the licensee.

2) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed 6 months or at alternative intervals approved by the Agency Department, pursuant to 32 Ill. Adm. Code 330.280(m), the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

3) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed 3 months or at alternative intervals approved by the Agency Department, pursuant to 32 Ill. Adm. Code 330.280(m), the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

4) Each sealed source that is required to be tested for leakage or contamination shall be removed from service if there is reason to suspect that the sealed source may have been damaged or may be leaking or contaminated. The source shall be kept out of service until test results that confirm there is no leakage or contamination are received.

5) Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, shall be capable of detecting the presence of 185 Bq (0.005 µCi) of radioactive material on a test sample. Test samples shall be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples shall be obtained when the source is in the "off" position. If setting the source to the "off" position would disrupt the licensee's activities, test samples may be obtained while the source is in the "on" position, provided that the dose likely to be received by the individual while obtaining the samples will not be so great as to require monitoring pursuant to Section 340.520(a) of this Part.

6) The test for leakage for brachytherapy sources manufactured to contain
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radium shall be capable of detecting an absolute leakage rate of 37 Bq (0.001 µCi) of radon-222 in a 24 hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time.

7) Tests for contamination from radium daughters shall be taken on the interior surface of brachytherapy source storage containers and shall be capable of detecting the presence of 185 Bq (0.005 µCi) of a radium daughter which has a half-life greater than 4 days.

b) A licensee need not perform tests for leakage or contamination on the following sealed sources:

1) Sealed sources containing only radioactive material with a half-life of less than 30 days;

2) Sealed sources containing only radioactive material as a gas;

3) Sealed sources containing 3.7 MBq (100 µCi) or less of beta or photon emitting material or 370 kBq (10 µCi) or less of alpha emitting material;

4) Sealed sources containing only hydrogen-3;

5) Seeds of iridium-192 encased in nylon ribbon;

6) Sealed sources, except teletherapy and brachytherapy sources, that are stored, not being used and identified as in storage. The licensee shall, however, test each such sealed source for leakage or contamination and receive the test results that confirm that the sealed source is not leaking or contaminated before any use or transfer unless it has been tested for leakage or contamination within 6 months for beta and gamma emitting sources, or within 3 months for sources designed to emit alpha particles, before the date of use or transfer; and

7) Sealed sources distributed under a license issued pursuant to 32 Ill. Adm. Code 330.280(m), but only if the evaluation sheet for those sealed sources, as filed in the "Radioactive Material Reference Manual" maintained by the Department of Health and Human Services or in the "Registry of Radioactive Sealed Sources and Devices" maintained by the U.S. Nuclear Regulatory Commission, specifies that testing for leakage or
c) Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by theAgencyDepartment, an Agreement State, a Licensing State or the Nuclear Regulatory Commission to perform such services.

d) Test results shall be kept as specified in Section 340.1135 of this Part.

e) The following shall be considered evidence that a sealed source is leaking:

1) The presence of 185 Bq (0.005 µCi) or more of removable contamination on any test sample.

2) Leakage of 37 Bq (0.001 µCi) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.

3) The presence of removable contamination resulting from the decay of 185 Bq (0.005 µCi) or more of radium.

f) The licensee shall immediately withdraw a leaking or contaminated sealed source from use and shall take action to prevent the spread of contamination. The leaking or contaminated sealed source shall be repaired, decontaminated or disposed of in accordance with this Part.

g) Reports of test results for leaking or contaminated sealed sources shall be made pursuant to Section 340.1260 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART F: SURVEYS AND MONITORING

Section 340.510 General

a) Each licensee or registrant shall make, or cause to be made, surveys:

1) That demonstrate compliance with this Part; and

2) That evaluate:

A) The extent of radiation levels;
B) Concentrations or quantities of radioactive material; and

C) The potential radiological hazards that could be present.

b) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements (e.g., dose rate and effluent monitoring) are calibrated at intervals not to exceed 12 months for the radiation measured or at alternative intervals specified in regulations of the Agency Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. To satisfy this requirement, the licensee shall:

1) Post a legible note on the instrument showing the date of calibration; and

2) Ensure that instrument calibrations are performed by persons specifically licensed by the Agency Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such calibrations.

c) On each day of use, prior to using an instrument to perform required monitoring, the licensee or registrant shall verify that the instrument is operational. Operational checks for radiation measurement or radiation detection instruments shall include verification of response to a source of radiation.

d) Except for those dosimeters used to measure the dose to any extremity, personnel dosimeters that require processing to determine the radiation dose and that are used by licensees or registrants to comply with Section 340.210 of this Part, with other applicable provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d or with conditions specified in a license shall be processed and evaluated by a qualified dosimetry processor. A dosimetry processor is qualified if:

1) It holds current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

2) It is approved by NVLAP for the type of radiation or radiations that most closely approximate the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

e) A licensee or registrant shall obtain Agency Department approval prior to using
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pocket ionization chambers or electronic dosimeters to determine radiation dose, to comply with Section 340.210 of this Part, or with other applicable provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d or with conditions specified in a license. The Agency Department will grant approval provided the licensee or registrant submits information describing the type and range of the dosimeters and describes a program to ensure the accuracy, reliability, precision and security of the dosimetry data.

f) The licensee or registrant shall ensure that adequate precautions are taken to prevent deceptive exposure of an individual monitoring device.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.520 Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant shall monitor doses from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Part. As a minimum:

a) Each licensee or registrant shall monitor occupational dose from sources of radiation and shall supply and require the use of individual monitoring devices by:

1) Adults likely to receive, in 1 year from sources external to the body, a dose in excess of ten percent of the limits in Section 340.210(a) of this Part;

2) Minors and declared pregnant women likely to receive, in 1 year from sources external to the body, a dose in excess of ten percent of any of the applicable limits in Sections 340.270 of this Part or 340.280; and

3) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem); and

4) Individuals entering a high or very high radiation area.

b) Each licensee shall monitor, to determine compliance with Section 340.240 of this Part, the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
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1) Adults likely to receive, in 1 year, an intake in excess of ten percent of the applicable ALIs in Table 1, Columns 1 and 2 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; and

2) Minors and declared pregnant women likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem). (Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.530 Location of Individual Monitoring Devices

Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with Section 340.520(a) of this Part wear individual monitoring devices as follows:

a) An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar).

b) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to Section 340.280(a) of this Part, shall be located at the waist under any protective apron being worn by the woman.

c) An individual monitoring device used for monitoring the eye dose equivalent, to demonstrate compliance with Section 340.210(a)(2)(A) of this Part, shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye.

d) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with Section 340.210(a)(2)(B) of this Part, shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored. (Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.540 Calibration of Survey Instruments
a) Unless specified in another Part, a licensee shall have each survey instrument used to show compliance with this Part calibrated before first use, annually and following a repair that affects the calibration. A licensee shall:

1) Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;

2) Calibrate two separated readings on each scale or decade that will be used to show compliance; and

3) Conspicuously note on the instrument the date of calibration.

b) A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.

(Source: Added at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART G: CONTROL OF EXPOSURE FROM EXTERNAL SOURCES IN RESTRICTED AREAS

Section 340.610 Control of Access to High Radiation Areas

a) The licensee shall ensure that each entrance or access point to a high radiation area has one or more of the following features:

1) A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep dose equivalent of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates; or

2) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

3) Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

b) In place of the controls required by subsection (a) of this Section above for a high radiation area, the licensee may substitute continuous direct or electronic
surveillance to enable action to be taken to prevent unauthorized entry.

c) The licensee may apply to the Agency Department for approval of alternative methods for controlling access to high radiation areas.

d) The licensee shall establish the controls required by subsections (a) and (c) of this Section above in a way that does not prevent individuals from leaving a high radiation area.

e) The licensee is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation provided that:

1) The packages do not remain in the area longer than 3 days; and

2) The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.

f) The licensee is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions, as required by 32 Ill. Adm. Code 335, to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this Part and to operate within the ALARA provisions of the licensee's radiation protection program.

g) The registrant shall control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in this Section in accordance with the requirements for access and control specified in other applicable Parts of 32 Ill. Adm. Code: Chapter II, Subchapters b and d (i.e., 32 Ill. Adm. Code 350 for industrial radiography, 32 Ill. Adm. Code 360 for use of x-rays in the healing arts and 32 Ill. Adm. Code 390 for particle accelerators).

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.620 Control of Access to Very High Radiation Areas

In addition to the controls required by Section 340.610 of this Section, the licensee or registrant
shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in 1 hour at 1 meter from a source of radiation or any surface through which the radiation penetrates.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.630 Control of Access to Very High Radiation Areas – Irradiators

a) This Section applies to licensees or registrants with sources of radiation in irradiators that are not self-shielded. This Section does not apply to sources of radiation that are used in teletherapy, in industrial radiography or in completely self-shielded irradiators in which the source is both stored and operated within the same radiation shielding barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create a radiation level of 5 Gy (500 rad) or more in 1 hour at 1 meter in an area that is accessible to any individual.

b) Each area in which there may exist radiation levels in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation that is used to irradiate matter shall meet the following requirements:

1) Each entrance or access point shall be equipped with entry control devices that:

   A) Function automatically to prevent any individual from inadvertently entering a very high radiation area;

   B) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

   C) Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep dose equivalent to an individual in excess of 1 mSv (0.1 rem) in 1 hour.

2) Additional control devices shall be provided so that, upon failure of the
entry control devices to function as required by subsection (b)(1) of this Section above:

A) The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

B) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard. The alarm signals shall be located so that at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, is made aware of the failure of the entry control devices.

3) The licensee or registrant shall provide control devices so that, upon failure or removal of any physical radiation barriers, other than the shielded storage container for sealed sources:

A) The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

B) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee or registrant or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

4) When the shield for the stored sealed source is a liquid, the licensee shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

5) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (b)(3) and (4) of this Section above.

6) Each area shall be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area
before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, which must be installed in the area and **which** can prevent the source of radiation from being put into operation.

7) Each area shall be controlled by use of devices and administrative procedures that ensure that the area is cleared of personnel prior to each use of the source of radiation.

8) Each area shall be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area is below that at which it would be possible for an individual to receive a deep dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour.

9) The entry control devices required in subsection (b)(1) of this Section**above** shall be tested for proper functioning (see Section 340.1190 of this Part for recordkeeping requirements).

A) Testing shall be conducted prior to initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;

B) Testing shall be conducted prior to resumption of operation of the source of radiation after any unintentional interruption; and

C) The licensee or registrant shall submit and adhere to a schedule for periodic tests of the entry control and warning systems.

10) The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in safe condition or to effect repairs on controls, unless control devices are functioning properly.

11) Entry and exit portals that are used in transporting matter to and from the irradiation area, and that are not intended for use by individuals, shall be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for irradiated matter shall be equipped to detect and signal the presence of any loose sealed sources that are carried toward such an exit and to automatically prevent loose sealed...
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sources from being carried out of the area.

c) Registrants, licensees or applicants for licenses for sources of radiation that are
within the purview of subsection (b) of this Section above and that will be
used in a variety of positions or in locations (e.g., open fields or forests) that make it impracticable to comply with certain requirements of subsection (b) of this Section above, such as those for the automatic control of radiation levels, may apply to the Agency for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to those specified in subsection (b) of this Section above. At least one of the alternative measures shall include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such sources of radiation are used.

d) The entry control devices required by subsections (b) and (c) of this Section above shall be established in such a way that no individual will be prevented from leaving the area.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART H: RESPIRATORY PROTECTION AND CONTROLS TO RESTRICT INTERNAL EXPOSURE IN RESTRICTED AREAS

Section 340.710 Use of Process or Other Engineering Controls

a) The licensee shall use, to the extent practicable, process or other engineering controls (e.g., containment or ventilation) to control the concentrations of radioactive material in air.

b) The licensee shall measure airflow rates initially and semiannually thereafter to assure proper ventilation system performance. Records of the evaluation of ventilation system performance shall be maintained for Agency inspection and shall include:

1) The date of evaluation;

2) Results of ventilation rate measurements;
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3) Manufacturer, model and serial number of the measurement instrument used; and

4) The identity of the individual performing the measurements.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.720 Use of Other Controls

a) When it is not practicable to apply process or other engineering controls to control the concentrations of radioactive material in air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent ALARA, increase monitoring and limit intakes by one or more of the following means:

1a) Control of access; or

2b) Limitation of exposure times; or

3e) Use of respiratory protection equipment; or

4d) Other controls.

b) If the licensee performs an ALARA analysis to determine whether respirators shall be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers’ industrial health and safety.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.730 Use of Individual Respiratory Protection Equipment

a) If the licensee uses respiratory protection equipment to limit intakes pursuant to Section 340.720 of this Part:

1) Except as provided in subsection (a)(2) of this Section below, the licensee shall use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration (NIOSH/MSHA).
2) The licensee may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, provided the licensee has submitted to the Agency Department and the Agency Department has approved an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

3) The licensee shall implement and maintain a respiratory protection program that meets the requirements of the Occupational Safety and Health Administration as set forth in 29 CFR 1910.134, effective April 18, 1998, includes:

   A) Air sampling to identify the potential hazard, permit proper equipment selection, and estimate exposures;

   B) Surveys and bioassays to evaluate actual intakes;

   C) Testing of respirators for operability immediately prior to each use;

   D) Written procedures regarding selection, fitting, issuance, maintenance and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

   E) Determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

4) The licensee shall issue a written policy statement on respirator usage covering:

   A) The use of process or other engineering controls, instead of respirators;

   B) The routine, nonroutine and emergency use of respirators; and
C) The length of periods of respirator use and relief from respirator use.

4) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions or any other conditions that might require such relief.

6) The licensee shall use respiratory protection equipment within the equipment manufacturer’s expressed limitations for type and mode of use and shall provide proper visual, communication and other special capabilities (e.g., adequate skin protection) when needed.

b) When estimating dose to exposure of individuals from intake of airborne radioactive materials, the licensee may make allowance for respiratory protection equipment used to limit intakes pursuant to Section 340.720 of this Part. To estimate dose, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the average ambient concentration in air without respirator protection, divided by the assigned protection factor. If the dose is later found to be greater than initially estimated, the corrected value shall be used; if the dose is later found to be less than initially estimated, the corrected value may be used. Protection factors for respirators are specified in Appendix A to 10 CFR 20, effective January 1, 2004, provided that the following conditions, in addition to those in subsection (a) above, are satisfied:

1) The licensee selects respiratory protection equipment that provides a protection factor, specified in Appendix A to 10 CFR 20.1001–20.2401, effective January 1, 1994, exclusive of subsequent amendments or editions, greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Table 1, Column 3 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 1994, exclusive of subsequent amendments or editions. However, if the selection of respiratory protection equipment with a protection factor greater than the peak concentration is inconsistent with the goal specified in Section 340.720 of keeping the total effective dose equivalent ALARA, the licensee may select respiratory protection equipment with a lower protection factor.
provided that such a selection would result in a total effective dose equivalent that is ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.

c2) The licensee shall obtain authorization from the Agency Department before assigning respiratory protection factors in excess of those specified in Appendix A to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions. The Agency Department shall authorize a licensee to use higher protection factors on receipt of an application that:

1A) Demonstrates that a need exists for higher protection factors; and

2B) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

e) The licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

d) The licensee shall notify the Agency Department, in writing, at least 30 days before the date that respiratory protection equipment is first used pursuant to the provisions of either subsection (a) or (b) of this Section above.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART I: STORAGE AND CONTROL OF LICENSED OR REGISTERED SOURCES OF RADIATION

Section 340.810 Security and Control of Licensed or Registered Sources of Radiation

a) The licensee shall secure licensed radioactive material from unauthorized removal or access.

b) The licensee shall maintain constant surveillance, and use devices or administrative procedures to prevent unauthorized use of licensed radioactive
material that is in an unrestricted area and that is not in storage.

c) Unless otherwise specified in 32 Ill. Adm. Code 335, 350 or 351 or by the Agency, the licensee shall conduct a physical inventory at intervals not to exceed 6 months to account for each sealed source received and possessed under the license schedule item and shall maintain a record of such inventories. The inventory records shall include the radionuclide, activity, activity assay date, manufacturer, model and serial number, location of the sealed source, date of the inventory and the identity of the individuals performing the inventory. 32 Ill. Adm. Code 350 and 351 allow for 3 months physical inventory and 32 Ill. Adm. Code 335 allows for physical inventory periods to be determined by the type of radioactive material. The registrant shall secure registered radiation machines from unauthorized removal.

d) For sources that are removed from storage for use or transport, the record shall include:

1) The number and activity of sources removed from storage, the time and date they were removed from storage, the name of the individual who removed them from storage and the location of use; and

2) The number and activity of sources returned to storage, the time and date they were returned to storage and the name of the individual who returned them to storage.

e) Records of inventories shall be maintained for 5 years from the date of each inventory.

f) The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.820 Storage of Volatiles and Gases

a) A licensee shall store unopened radioactive gases and volatile radioactive material, including iodine as sodium iodide, in the shipper's radiation shield and container; or

b) A licensee shall store opened containers from which material is extracted in a
properly functioning, ventilated device such as a glove box or fume hood.

(Source: Added at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.830 Control of Volatiles and Gases

a) A licensee who uses or stores radioactive volatile materials or gases shall do so with a system that will keep airborne concentrations within the limits prescribed in this Part.

b) The system shall either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the volatile material or gas in a shielded container.

c) A licensee shall use or store radioactive gases only in rooms that are at negative pressure compared to surrounding rooms or hallways.

d) A licensee shall post, at the area of use or storage, emergency procedures to be followed in the event of a gas spill.

e) In the event of evacuation because of a spill or leak, the licensee shall use a radiation detection survey instrument upon room re-entry to ensure radiation levels have returned to background levels.

f) A licensee shall check the operation of reusable collection systems monthly and measure the ventilation rates available in areas of use at intervals not to exceed 6 months. The licensee shall maintain a record of these checks for 5 years. The record shall include the model and serial number of the collection system, results of all checks recommended by the manufacturer of the collection system, the date of the checks and the identity of the individual who performed the checks.

g) Contaminated charcoal trap filters, air handling systems and respiratory equipment shall be disposed of in accordance with this Part.

(Source: Added at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART J: PRECAUTIONARY PROCEDURES

Section 340.910 Caution Signs
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a) Standard Radiation Symbol. Unless otherwise authorized by the Agency, the symbol prescribed by this Part shall use the colors magenta, or purple, or black on yellow background. The symbol prescribed by this Part is the three-bladed design as shown in Section 340 Illustration A of this Part.

b) Exception to Color Requirements for Standard Radiation Symbol. Notwithstanding the requirements of subsection (a) of this Section above, licensees or registrants are authorized to label sources, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

c) Additional Information on Signs and Labels. In addition to the contents of signs and labels prescribed in this Part, the licensee or registrant may provide, on or near the required signs and labels, information to make individuals aware of potential radiation exposures and to minimize the exposures.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.920 Posting Requirements

a) Posting of Radiation Areas. The licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA".

b) Posting of High Radiation Areas. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA".

c) Posting of Very High Radiation Areas. The licensee or registrant shall post each very high radiation area with a conspicuous sign or signs bearing the radiation symbol and words "GRAVE DANGER, VERY HIGH RADIATION AREA".

d) Posting of Airborne Radioactivity Areas. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA".
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e) Posting of Areas or Rooms in WhichLicensed Material is Used or Stored. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding ten times the quantity of such material specified in Appendix C to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)".

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.930 Exceptions to Posting Requirements

a) A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than 8 hours, if each of the following conditions is met:

1) The sources of radiation are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to sources of radiation in excess of the limits established in this Part; and

2) The area or room is subject to the licensee's or registrant's control.

b) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to Section 340.920 of this Part provided that the patient door posting requirements of 32 Ill. Adm. Code 335.5030(a)(5) or 335.7030(b) are met.

c) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs, provided that:

1) A patient being treated with a permanent implant could be released from confinement pursuant to 32 Ill. Adm. Code 335.2110; or

2) A patient being treated with a therapeutic radiopharmaceutical could be released from confinement pursuant to 32 Ill. Adm. Code 335.5030(b).

d) A room or area is not required to be posted with a caution sign because of the presence of a sealed source provided the radiation level at 30 centimeters (12 inches) from the surface of the sealed source container or housing does not exceed
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0.05 mSv (0.005 rem) per hour.

e) A room or area is not required to be posted with a caution sign because of the presence of radiation machines used solely for diagnosis in the healing arts.

f) If a room or area in which radioactive material or radiation machines are used for the treatment of patients is required to be posted with the words, "GRAVE DANGER, VERY HIGH RADIATION AREA" in accordance with 340.920(c) of this Part, the following words may be substituted: "DANGER, VERY HIGH RADIATION AREA".

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.950 Exemptions to Labeling Requirements

A licensee is not required to label:

a) Containers holding licensed material in quantities less than the quantities listed in Appendix C to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; or

b) Containers holding licensed material in concentrations less than those specified in Table 3 of Appendix B to 10 CFR 20.1001–20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; or

c) Containers attended by an individual who takes the precautions (e.g., controlling access) necessary to prevent the exposure of individuals in excess of the limits established by this Part; or

d) Containers when they are in transport, provided the containers are packaged and labeled in accordance with the regulations of the U.S. Department of Transportation; or

AGENCY NOTE: Labeling of packages containing radioactive materials is required by the U.S. Department of Transportation if the amount and type of radioactive material exceeds the limits for an excepted quantity or article as defined and limited by 49 CFR 173.403(m) and (w) and 173.421 through 173.424, current as October 1, 2004, exclusive of subsequent amendments or editions.

e) Containers that are accessible only to individuals authorized to handle or use
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them, or to work in the vicinity of the containers, if the contents are identified to
these individuals by a readily available written record (examples of containers of
this type are containers in locations such as water-filled canals, storage vaults or
hot cells). The record shall be retained as long as the containers are in use for the
purpose indicated on the record; or

f) Installed manufacturing or process equipment, such as piping and tanks.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.960 Procedures for Receiving and Opening Packages

a) Each licensee who is authorized to receive a package containing quantities of
radioactive material in excess of a Type A quantity, as defined in 32 Ill. Adm.
Code 341.20, as listed in 49 CFR 173.435 published October 1, 1993, or as
derived from 49 CFR 173.433 published October 1, 2004 shall:

1) Make arrangements to receive the package when the carrier offers it for
delivery; or

2) Make arrangements to receive the notification of the arrival of the package
at the carrier's terminal and to take possession of the package
expeditiously.

b) Each licensee shall:

1) Monitor the external surfaces of a labeled package for radioactive
contamination unless the package contains only radioactive material in the
form of a gas or in special form radioactive material as defined in 32 Ill.
Adm. Code 310.20;

AGENCY NOTE: Labeled means labeled with a Radioactive White I,
Radioactive Yellow II or Radioactive Yellow III label as specified in U.S.
Department of Transportation regulations, 49 CFR 172.403 and 172.436-
440, published October 1, 2004, 2004

2) Monitor the external surfaces of a labeled package for radiation levels
unless the package contains quantities of radioactive material that are less
than or equal to the Type A quantity, as defined in 32 Ill. Adm. Code
341.20, as listed in 49 CFR 173.435 published October 1, 1993, or as
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3) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet or damaged.

c) The licensee shall perform the monitoring required by subsection (b) of this Section as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours or if there is evidence of degradation of package integrity, such as a package that is crushed, wet or damaged. If a package is received after working hours, and has no evidence of degradation of package integrity, the package shall be monitored no later than 3 hours from the beginning of the next working day.

d) The licensee shall immediately notify the final delivery carrier and the Agency by telephone, and shall confirm the initial contact within 24 hours by overnight letter or telefacsimile to the Agency, when:

1) Removable radioactive surface contamination exceeds the limits of 32 Ill. Adm. Code 341.150(h); or

2) External radiation levels exceed the limits of 32 Ill. Adm. Code 341.150(i) and (j).

e) Each licensee shall:

1) Establish, maintain and retain written procedures for safely opening packages in which radioactive material is received; and

2) Ensure that the procedures are followed and that special instructions for the type of package being opened are adhered to.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART K: WASTE DISPOSAL

Section 340.1010 General Requirements

a) A licensee shall dispose of licensed material only:
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1) By transfer to an authorized recipient as provided in Section 340.1060 of this Part or in 32 Ill. Adm. Code 330, 332 or 601, or to the U.S. Department of Energy; or

2) By release in effluents within the limits in Section 340.310 of this Part; or

3) As authorized pursuant to Sections 340.1020, 340.1030, 340.1040 or 340.1050 of this Part.

b) A person shall be specifically licensed by the Agency prior to receiving waste containing licensed material from any other point of generation for:

1) Storage for decay; or

2) Treatment prior to disposal; or

3) Treatment or disposal by incineration; or

4) Disposal at a land disposal facility licensed pursuant to 32 Ill. Adm. Code 601; or

5) Storage until transferred to a disposal facility authorized to receive the waste.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1020 Method for Obtaining Approval of Proposed Disposal Procedures

A licensee or applicant for a license may apply to the Agency for approval of proposed procedures, not otherwise authorized in 32 Ill. Adm. Code: Chapter II, Subchapters b and d, to dispose of licensed material generated in the licensee's operations. Each application shall include:

a) A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation, and the proposed manner and conditions of waste disposal;

b) An analysis and evaluation of pertinent information on the nature of the
c) The nature and location of other potentially affected facilities; and

d) Analyses and procedures to ensure that doses are maintained ALARA and within the dose limits in this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1030 Disposal by Release into Sanitary Sewerage

a) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

1) The material is readily soluble, or is readily dispersible biological material, in water;

2) The quantity of licensed radioactive material that the licensee releases into the sewer in 1 month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in Table 3 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions;

3) If more than one radionuclide is released, the following conditions must also be satisfied:

A) The licensee shall determine the fraction of the limit in Table 3 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions, represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in Table 3 of Appendix B to 10 CFR 20.1001—20.2401, effective January 1, 2004, exclusive of subsequent amendments or editions; and

B) The sum of the fractions for each radionuclide required by subsection (a)(3)(A) of this Section above does not exceed unity;

4) The total quantity of licensed radioactive material that the licensee
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releases into sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of hydrogen-3, 37 GBq (1 Ci) of carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined; and

5) In determining compliance with subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this Section above, the licensee shall not include the activity from radioactive material excluded by subsection (b) of this Section below.

b) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (a) of this Section above.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1040 Treatment or Disposal by Incineration

A licensee may treat or dispose of licensed material by incineration only in the amounts and forms specified in Section 340.1050 of this Part or as specifically approved by the Agency Department pursuant to Section 340.1020 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1045 Decay-In-Storage

A licensee may store waste containing, or comprised of, radioactive material with a physical half-life of less than 120 days for "decay-in-storage" before disposal as normal waste under the following provisions:

a) Radioactive waste to be disposed of shall be held for decay a minimum of 10 half-lives.

b) Pursuant to Section 340.510(a) and (b) of this Part, radiation surveys shall be performed prior to disposal of the waste to ensure that the waste's radioactivity cannot be distinguished from background radiation levels. The package/container surface shall be surveyed with an appropriate radiation detection survey instrument set on its most sensitive scale, with no interposed shielding between the detector and the waste, in a low background radiation environment.
e) Records of monitoring shall be maintained to include: date of disposal; date placed in storage; manufacturer, model and serial number of the survey instrument used; background radiation levels; and measured radiation levels.

d) The identity of the individual performing the monitoring shall be recorded.

e) All radiation labels shall be removed or obliterated.

(Source: Added at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1050 Disposal of Specific Wastes

a) A licensee may dispose of the following licensed material as if it were not radioactive:

1) 1.85 kBq (0.05 µCi), or less, of hydrogen-3, carbon-14 or iodine-125 per gram of medium used for scintillation counting; and

2) 1.85 kBq (0.05 µCi), or less, of hydrogen-3, carbon-14 or iodine-125 per gram of animal tissue, averaged over the weight of the entire animal.

b) A licensee shall not dispose of tissue pursuant to subsection (a)(2) of this Section above in a manner that would permit its use either as food for humans or as animal feed.

c) The licensee shall maintain records in accordance with Section 340.1180 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1052 Classification of Radioactive Waste for Land Disposal

a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given
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to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form and disposal methods are effective.

b) Classes of waste.

1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section 340.1055(a) of this Part. If Class A waste also meets the stability requirements set forth in Section 340.1055(b) of this Part, it is not necessary to segregate the waste for disposal.

2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability (as defined in 32 Ill. Adm. Code 601.20) after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section 340.1055 of this Part.

3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section 340.1055 of this Part.

c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table 1 of this Section, classification shall be determined as follows:

1) If the concentration does not exceed 0.1 times the value in Table 1 of this Section, the waste is Class A.

2) If the concentration exceeds 0.1 times the value in Table 1 of this Section, but does not exceed the value in Table 1 of this Section, the waste is Class C.

3) If the concentration exceeds the value in Table 1 of this Section, the waste is not generally acceptable for land disposal.

4) For wastes containing mixtures of radionuclides listed in Table 1 of this Section, the total concentration shall be determined by the sum of fractions rule.
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described in subsection (g) of this Section below.

Table 1

<table>
<thead>
<tr>
<th>Radionuclide</th>
<th>Concentration curies/cubic meter</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-14</td>
<td>8</td>
</tr>
<tr>
<td>C-14 in activated metal</td>
<td>80</td>
</tr>
<tr>
<td>Ni-59 in activated metal</td>
<td>220</td>
</tr>
<tr>
<td>Nb-94 in activated metal</td>
<td>0.2</td>
</tr>
<tr>
<td>Tc-99</td>
<td>3</td>
</tr>
<tr>
<td>I-129</td>
<td>0.08</td>
</tr>
<tr>
<td>Alpha emitting transuranic radionuclides with half-life greater than five years</td>
<td>100</td>
</tr>
<tr>
<td>Pu-241</td>
<td>3,500</td>
</tr>
<tr>
<td>Cm-242</td>
<td>20,000</td>
</tr>
<tr>
<td>Ra-226</td>
<td>100</td>
</tr>
</tbody>
</table>

AGENCY NOTE: Units are nanocuries per gram.

d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table 1 above, classification shall be determined based on the concentrations shown in Table 2 of this Section below. However, as specified in subsection (f) of this Section below, if radioactive waste does not contain any nuclides listed in either Table 1 above or Table 2 below, it is Class A.

1) If the concentration does not exceed the value in Column 1, the waste is Class A.

2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.

3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.

4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
5) For wastes containing mixtures of the radionuclides listed in Table 2, the total concentration shall be determined by the sum of fractions rule described in subsection (g) of this Section.

Table 2

<table>
<thead>
<tr>
<th>Radionuclide</th>
<th>Concentration, (curies/cubic meter)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Column 1</td>
</tr>
<tr>
<td>Total of all radionuclides with</td>
<td>700</td>
</tr>
<tr>
<td>less than 5-year half-life</td>
<td></td>
</tr>
<tr>
<td>H-3</td>
<td>40</td>
</tr>
<tr>
<td>Co-60</td>
<td>700</td>
</tr>
<tr>
<td>Ni-63</td>
<td>3.5</td>
</tr>
<tr>
<td>Ni-63 in activated metal</td>
<td>35</td>
</tr>
<tr>
<td>Sr-90</td>
<td>0.04</td>
</tr>
<tr>
<td>Cs-137</td>
<td>1</td>
</tr>
</tbody>
</table>

AGENCY NOTE: There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table 2 determine the waste to be Class C independent of these radionuclides.

e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table 1 and some of which are listed in Table 2, classification shall be determined as follows:

1) If the concentration of a radionuclide listed in Table 1 is less than 0.1 times the value listed in Table 1, the class shall be that determined by the concentration of radionuclides listed in Table 2.

2) If the concentration of a radionuclide listed in Table 1 exceeds 0.1 times the value listed in Table 1, but does not exceed the value in Table 1, the waste shall be Class C, provided the concentration of radionuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.
f) Classification of wastes with radionuclides other than those listed in Tables 1 and 2 above. If the waste does not contain any radionuclides listed in either Tables 1 or 2 above, it is Class A.

g) The sum of the fractions rule for mixtures of radionuclides. For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits must all be taken from the same column of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 50 Ci/m3 and Cs-137 in a concentration of 22 Ci/m3. Since the concentrations both exceed the values in Column 1, Table 2, they must be compared to Column 2 values. For Sr-90 fraction, $50/150 = 0.33$, and for Cs-137 fraction, $22/44 = 0.5$; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

h) Determination of concentrations in wastes. The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as nano-curies per gram.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1055 Radioactive Waste Characteristics

a) The following are minimum requirements for all classes of waste and are intended to facilitate handling and provide protection of health and safety of personnel at the disposal site.

1) Wastes shall be packaged in conformance with the conditions of the license issued to the site operator to which the waste will be shipped. Where the conditions of the site license are more restrictive than the provisions of this Part, the site license conditions shall govern.

2) Wastes shall not be packaged for disposal in cardboard or fiberboard boxes.
3) Liquid waste shall be packaged in sufficient absorbent material to absorb twice the volume of the liquid.

4) Solid waste containing liquid shall contain as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume.

5) Waste shall not be readily capable of detonation or of explosive decomposition or reaction at normal pressures and temperatures, or of explosive reaction with water.

6) Waste shall not contain, or be capable of generating, quantities of toxic gases, vapors or fumes harmful to persons transporting, handling or disposing of the waste. This does not apply to radioactive gaseous waste packaged in accordance with subsection (a)(8) of this Section below.

7) Waste must not be pyrophoric. Pyrophoric materials contained in wastes shall be treated, prepared and packaged to be nonflammable. (See 32 Ill. Adm. Code 601 for definition of pyrophoric.)

8) Wastes in a gaseous form shall be packaged at an absolute pressure that does not exceed 1.5 atmospheres at 20°C (68°F). Total activity shall not exceed 100 Ci per container.

9) Wastes containing hazardous, biological, pathogenic or infectious material shall be treated to reduce to the maximum extent practicable the potential hazard from the non-radiological materials.

b) The following requirements are intended to provide stability of the waste. Stability is intended to ensure that the waste does not degrade and affect overall stability of the site through slumping, collapse or other failure of the disposal unit and thereby lead to water infiltration. Stability is also a factor in limiting exposure to an inadvertent intruder, since it provides a recognizable and nondispersible waste.

1) Waste shall have structural stability. A structurally stable waste form will generally maintain its physical dimensions and its form, under the expected disposal conditions such as weight of overburden and compaction equipment, the presence of moisture, and microbial activity,
and internal factors such as radiation effects and chemical changes. Structural stability can be provided by the waste form itself, processing the waste to a stable form, or placing the waste in a disposal container or structure that provides stability after disposal.

2) Notwithstanding the provisions in subsections (a)(3) and (a)(4) of this Section above, liquid wastes, or wastes containing liquid, shall be converted into a form that contains as little free-standing and non-corrosive liquid as is reasonably achievable, but in no case shall the liquid exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume of the waste for waste processed to a stable form.

3) Void spaces within the waste and between the waste and its package shall be reduced to the extent practicable.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1057 Labeling

Each package of waste shall be clearly labeled to identify whether it is Class A, Class B or Class C waste, in accordance with Section 340.1052 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1060 Transfer for Disposal and Manifests

a) Each licensee who transports or offers for transportation low-level radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste disposal facility shall prepare a manifest reflecting information requested on the applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). Each shipment of radioactive waste to a licensed land disposal facility shall be accompanied by a shipment manifest that contains the name, address and telephone number of the person generating the waste, as well as the name, address and telephone number or the name and U.S. Environmental Protection Agency hazardous waste identification number of the person transporting the waste. The manifest shall also indicate as completely as
practicable: a physical description of the waste; the waste volume; radionuclide identity and quantity; the total radioactivity; and the principal chemical form. The solidification agent shall be specified. Wastes containing more than 0.1% chelating agents by weight shall be identified and the weight percentage of the chelating agent shall be estimated. Wastes classified as Class A, Class B or Class C in Section 340.1052 shall be clearly identified as such in the manifest. The total quantity of the radionuclides H-3, C-14, Te-99 and I-129 shall be shown.

AGENCY NOTE: For guidance in completing these forms, refer to the instructions that accompany the forms. NRC Forms 540, 540A, 541, 541A, 542 and 542A and the accompanying written instructions may be obtained from the Information and Records Management Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

b) NRC Forms 540 and 540A shall be completed and shall physically accompany each low-level radioactive waste shipment. Each licensee shipping low-level radioactive waste shall transfer manifest information to the consignee.

cb) Upon agreement between the shipper and the consignee, NRC Forms 541, 541A, 542 or 542A may be completed, transmitted and stored in electronic media with the capability of producing legible, accurate and complete records on the respective forms. Copies of manifests required by this Section may be legible carbon copies, photocopies or computer printouts that reproduce the data in the format of the uniform manifest. The manifest required by this Section may be shipping papers used to meet USDOT or U.S. Environmental Protection Agency regulations (i.e., 40 CFR 262 and 263, revised as of July, 1984, exclusive of subsequent amendments or editions), or requirements of the receiver, provided all the required information is included.

de) Licensees are exempt from the manifesting requirements of this Section when shipping:

1) Low-level radioactive waste for processing and when they expect its return (i.e., for storage under their license) prior to disposal at a licensed disposal facility;

2) Low-level radioactive waste that is being returned to the licensee who is the waste generator; or
3) Radioactively contaminated material to a waste processor that becomes the processor's residual waste.

Each manifest shall include a certification by the waste generator that the materials being transported are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to the applicable regulations of the USDOT and the Department. An authorized representative of the waste generator shall sign and date the manifest.

d) Each licensee shipping low-level radioactive waste shall also comply with the reporting requirements specified in 32 Ill. Adm. Code 609. Any licensee who transfers waste to a land disposal facility or a licensed waste collector shall comply with the following requirements. Any licensee who transfers waste to a licensed waste processor who treats or repackages waste shall comply with the requirements of subsections (d)(4) through (d)(8) below. A licensee shall:

1) Prepare all wastes so that the waste is classified according to Section 340.1052 and meets the waste characteristics requirements in Section 340.1055;

2) Label each package of waste to identify whether it is Class A waste, Class B waste or Class C waste, in accordance with Section 340.1052;

3) Conduct a quality control program to assure compliance with Sections 340.1052 and 340.1055; the program must include management evaluation of audits;

4) Prepare shipping manifests to meet the requirements of subsections (a) and (c) above;

5) Forward a copy of the manifest to the intended recipient at the time of shipment; or, deliver to a collector at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest from the collector;

6) Include one copy of the manifest with the shipment;

7) Retain a copy of the manifest with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by this Part; and
8) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Section, conduct an investigation in accordance with this Section.

8e) Each shipper of radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

1) The name, facility address and telephone number of the licensee shipping the waste;

2) An explicit declaration indicating whether the shipper is acting as a waste generator, collector or processor, or a combination of these identifiers, for purposes of the manifested shipment;

3) The name, address and telephone number, or the name and USEPA identification number, for the carrier transporting the waste;

4) The date of the waste shipment;

5) The total number of packages/disposal containers;

6) The total disposal volume and disposal weight in the shipment;

7) The total radionuclide activity in the shipment;

8) The activity of each of the radionuclides H-3, C-14, Tc-99 and I-129 contained in the shipment; and

9) The total masses of U-233, U-235 and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

AGENCY NOTE: The reporting requirements of the uniform manifest meet the reporting requirements of USDOT for the shipments of waste. Therefore, no additional DOT forms are required for shipments of low-level radioactive waste. However, the uniform manifest does not meet the reporting requirements of USEPA for the shipment of hazardous, medical or other waste. Any additional USEPA requirements shall be met by using an additional USEPA manifest. In addition, the uniform manifest reporting requirements do not meet the tracking requirements of 32 Ill. Adm. Code 609.
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Any waste collector licensee who handles only prepackaged waste shall:

1) Acknowledge receipt of the waste from the generator within one week after receipt by returning a signed copy of the manifest to the generator;

2) Prepare a new manifest to reflect consolidated shipments; the new manifest shall serve as a listing or index for the detailed generator manifests. Copies of the generator manifests shall be a part of the new manifest. The waste collector may prepare a new manifest without attaching the generator manifests, provided the new manifest contains for each package the information specified in subsection (a) above. The collector licensee shall certify that nothing has been done to the waste which would invalidate the generator’s certification;

3) Forward a copy of the new manifest to the land disposal facility operator at the time of shipment;

4) Include the new manifest with the shipment to the disposal site;

5) Retain a copy of the manifest with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by this Part, and retain information from generator manifests until disposition is authorized by the Department; and

6) For any shipments or any part of a shipment for which acknowledgement of receipt is not received within the times set forth in this Section, conduct an investigation in accordance with subsection (h) below.

gf) For waste shipments in disposal containers, each shipper shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

1) An alphabetic or numeric identification that identifies each disposal container in the shipment;

2) A physical description of the disposal container, including the manufacturer and model of any high integrity container;

3) The volume displaced by the disposal container;
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4) The gross weight of the disposal container, including the waste;

5) For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;

6) A physical and chemical description of the waste;

7) The total weight percentage of chelating agent for any waste containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;

8) The approximate volume of waste within a container;

9) The sorbing or solidification media, if any, and the identity of the manufacturer of the solidification media and brand name;

10) The identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

11) The total radioactivity within each container; and

12) For wastes consigned to a disposal facility, the classification of the waste shall be identified on the manifest pursuant to Section 340.1052 of this Part. Waste not meeting the structural stability requirements of Section 340.1055(b) of this Part shall also be identified on the manifest.

Any licensed waste processor who treats or repackages wastes shall:

1) Acknowledge receipt of the waste from the generator within one week after receipt by returning a signed copy of the manifest to the generator;

2) Prepare a new manifest that meets the requirements of subsections (a), (b) and (c) above. Preparation of the new manifest reflects that the processor...
3) Prepare all wastes so that the waste is classified according to Section 340.1052 and meets the waste characteristics requirement in Section 340.1055;

4) Label each package of waste to identify whether it is Class A waste, Class B waste or Class C waste, in accordance with Sections 340.1052 and 340.1057 of this Part;

5) Conduct a quality control program to assure compliance with Sections 340.1052 and 340.1055. This program shall include management evaluation of audits;

6) Forward a copy of the new manifest to the disposal site operator or waste collector at the time of shipment, or deliver to a collector at the time the waste is collected, obtaining acknowledgement of receipt in the form of a signed copy of the manifest by the collector;

7) Include the new manifest with the shipment;

8) Retain copies of original manifests and new manifests with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by this Part; and

9) For any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this Section, conduct an investigation in accordance with subsection (h) below.

**hg)** For waste shipments delivered without a disposal container, the shipper of the radioactive waste shall provide the following information on the uniform manifest:

1) The approximate volume and weight of the waste;

2) A physical and chemical description of the waste;

3) The total weight percentage of chelating agent for any waste containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;
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4) For wastes consigned to a disposal facility, the classification of the waste shall be identified on the manifest pursuant to Section 340.1052 of this Part. Waste not meeting the structural stability requirements of Section 340.1055(b) of this Part shall also be identified on the manifest;

5) The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

6) For waste consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

The land disposal facility operator shall:

1) Acknowledge receipt of the waste within one week after receipt by returning a signed copy of the manifest to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. The returned copy of the manifest shall indicate any discrepancies between materials listed on the manifest and materials received;

2) Retain a copy of the manifest with documentation of acknowledgement of receipt as the record of transfer of licensed material as required by this Part, and retain information from generator manifests until disposition is authorized by the Department; and

3) Notify the shipper (i.e., the generator, the collector or processor) and the Department when any shipment or part of a shipment has not arrived within 60 days after the advance manifest was received.

For waste comprised of mixtures of waste originating from different waste generators, the shipper shall provide the following information on the uniform manifest:

AGENCY NOTE: The origin of the low-level radioactive waste resulting from a processor’s activities may be attributable to one or more “waste generators” as defined in this Part.
1) For homogeneous mixtures of waste, such as incinerator ash, provide the waste description applicable to the mixture and the volume of the waste attributed to each waste generator.

2) For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each waste generator, provide the following:

A) The volume of waste;

B) A physical and chemical description of the waste, including the solidification agent, if any;

C) The total weight percentage of chelating agents for any waste containing more than 0.1 percent chelating agent by weight, plus the identity of the principal chelating agent;

D) The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in Section 340.1055(b) of this Part; and

E) Radionuclide identities and activities contained in the waste, the masses of U-233, U-235 and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

j) An authorized representative of the licensee shall certify, by signing and dating the shipment manifest, that the transported materials are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to the requirements of USDOT regulations and this Part. A collector, in signing the certification, is certifying that nothing has been done to the collected waste that would invalidate the waste generator's certification.

k) Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in subsections (k)(1)
through (k)(9) of this Section. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of subsections (k)(4) through (k)(9) of this Section. The licensee shall:

1) Prepare all wastes so that the waste is classified according to Section 340.1052 of this Part and meets the waste characteristics requirements in Section 340.1055 of this Part;

2) Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste or greater than Class C waste, in accordance with Section 340.1052 of this Part;

3) Conduct a quality assurance program to assure compliance with Sections 340.1052 and 340.1055 of this Part (the program shall include management evaluation of audits);

4) Prepare the appropriate NRC Uniform Low-Level Radioactive Waste Manifest form as required by this Part;

5) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that receipt of the manifest precedes the low-level radioactive waste shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using either or both of these methods is acceptable;

6) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in subsection (k)(5) of this Section;

7) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

8) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by the Agency; and
9) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Part, conduct an investigation in accordance with Section 340.1270 of this Part.

1) Any waste collector licensee who handles only prepackaged waste shall comply with subsections (l)(1), (l)(2) and (l)(7) through (l)(12) of this Section. Any licensed waste processor who treats or repackages waste shall comply with subsections (l)(1) and (l)(3) through (l)(12) of this Section.

1) Acknowledge receipt of the waste from the shipper within one week after receipt by returning a signed copy of NRC Form 540 to the shipper;

2) Prepare a new manifest to reflect consolidated shipments that meet the requirements of this Part. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

3) Prepare a new manifest that meets the requirements of this Part. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume and the other information required in subsection (i) of this Section;

4) Prepare all wastes so that the waste is classified according to Section 340.1052 of this Part and meets the waste characteristics requirements in Section 340.1055 of this Part;

5) Label each package of waste to identify whether it is Class A waste, Class B waste or Class C waste, in accordance with Sections 340.1052 and 340.1055 of this Part;

6) Conduct a quality assurance program to assure compliance with Sections 340.1052 and 340.1055 of this Part (the program shall include management evaluation of audits);

7) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that receipt of the manifest precedes the low-level radioactive waste shipment, or the
manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using either or both of these methods is acceptable;

8) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in subsection (l)(7) of this Section;

9) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

10) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by the Agency;

11) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this Part, conduct an investigation in accordance with Section 340.1270 of this Part; and

12) Notify the shipper and the Agency when any shipment or part of a shipment has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

m) Any licensed land disposal facility operator shall:

1) Acknowledge receipt of low-level radioactive waste within 1 week after receipt by returning, at a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms shall be returned indicating the discrepancy;

2) Maintain copies of all completed manifests and electronically store the information required by 32 Ill. Adm. Code 606.40 until the Agency terminates the license; and
3) Notify the shipper and the Agency when any shipment or part of a shipment has not arrived within 60 days after receipt of an advance manifest, unless notified by the shipper that the shipment has been cancelled.

Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in this Section must:

1) Be investigated by the shipper if the shipper has not received notification of receipt within 20 days after transfer; and

2) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the Department. Each licensee who conducts a trace investigation shall file a written report with the Department within 2 weeks after completion of the investigation.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART L: RECORDS

Section 340.1110 General Provisions

a) Each licensee or registrant shall use the SI units becquerel, gray, sievert and coulomb/kilogram or the special units curie, rad, rem and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Part.

b) The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Part (e.g., total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, eye dose equivalent, deep dose equivalent, committed effective dose equivalent).

c) No licensee or registrant shall subtract radiation exposures from official personnel monitoring records without the prior written approval of the Agency Department.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1120 Records of Radiation Protection Programs

a) Each licensee or registrant shall maintain records of the radiation protection
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program required pursuant to Section 340.110 of this Part, including:

1) The provisions of the program; and

2) Audits and other reviews of program content and implementation.

b) The licensee or registrant shall retain the records required by subsection (a)(1) of this Part above until the Agency Department terminates each license or registration for which the record is required. The licensee or registrant shall retain the records required by subsection (a)(2) of this Section above for 5 years after the record is made.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1130  Records of Surveys and Calibrations

a) Each licensee or registrant shall maintain records showing the results of surveys and calibrations required by Sections 340.510 and 340.960(b) of this Part. The licensee or registrant shall retain these records for 5 years after the record is made.

1) Records of surveys shall include:

A) The location and date of the survey and the model and serial number of the instrument used to perform the survey;

B) The identity of the individual performing the survey; and

C) The results of the survey and any corrective actions that were taken as a result.

2) For each survey instrument calibrated in accordance with Section subsection 340.510(b) of this Part, the licensee shall maintain the following records:

A) A copy of the licensee's own calibration procedures or a copy of a license issued by the Agency Department, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State authorizing the person that performed the calibrations to perform calibrations as a customer service; and
B) A record identifying the manufacturer, model and serial number of the instrument that was calibrated, the calibration results, the identity of the individual who performed the calibration and the date of the calibration.

3) Each licensee authorized to perform instrument calibrations shall maintain a copy of each calibration document created in accordance with subsection (a)(2)(B) of this Section above and a copy of the procedures followed to perform that calibration.

4) The licensee shall retain a record of each check required in Section 340.540(a) of this Part for 5 years. The record shall include the manufacturer, model and serial number of the instrument being checked, a description of the source used, the radiation level indicated by the instrument being checked, the identity of the individual who performed the check, and the date of the check.

b) The licensee or registrant shall retain each of the following records until the Agency terminates each license or registration for which the record is required:

1) Records of the results of surveys to determine the dose from external sources of radiation that are used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents;

2) Records of the results of measurements and calculations that are used to determine individual intakes of radioactive material and that are used in the assessment of internal dose;

3) Records showing the results of air sampling, surveys and bioassays required pursuant to Sections 340.730(a)(3)(A) and (B) of this Part; and

4) Records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1135 Records of Tests for Leakage or Contamination of Sealed Sources
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a) Records of tests for leakage or contamination required by Section 340.410 of this Part shall be kept in units of becquerel or microcurie and maintained for inspection by the Agency Department for 5 years after the records are made.

b) The records of tests for leakage and/or contamination shall contain the manufacturer, model and serial number, if assigned, of each source tested, the identity of each source radionuclide, the results for each test sample expressed in Bq or µCi, the date the sample was collected, the date the sample was analyzed, the identity of the individual who collected the samples and the identity of the individual who analyzed the samples.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1140 Records of Prior Occupational Dose

a) The licensee or registrant shall retain the records of prior occupational dose and exposure history as specified in Section 340.250 of this Part until the Agency Department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing the prior occupational dose and exposure history for 3 years after the record is made.

b) Upon termination of the license or registration, the records of prior occupational dose and exposure history shall be transferred to the Agency Department.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1150 Records of Planned Special Exposures

a) For each use of the provisions of Section 340.260 of this Part for planned special exposures, the licensee shall maintain records that describe:

1) The exceptional circumstances requiring the use of a planned special exposure;

2) The name of the management official who authorized the planned special exposure and a copy of the signed authorization;

3) What actions were necessary;

4) Why the actions were necessary;
5) What precautions were taken to assure that doses were maintained ALARA;
6) What individual and collective doses were expected to result; and
7) The doses actually received in the planned special exposure.

b) The licensee shall retain the records until the Agency Department terminates each license for which these records are required.

c) Upon termination of the license, the records of doses received during planned special exposures shall be transferred to the Agency Department.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1160 Records of Individual Monitoring Results

a) Recordkeeping Requirement. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring was required pursuant to Section 340.520 of this Part, and records of doses received during planned special exposures, accidents and emergency conditions. These records shall include, when applicable:

1) The deep dose equivalent to the whole body, lens dose equivalent, eye dose equivalent, shallow dose equivalent to the skin and shallow dose equivalent to the extremities;

2) The estimated intake of radionuclides (see Section 340.220 of this Part);

3) The committed effective dose equivalent assigned to the intake of radionuclides;

4) The specific information used to calculate the committed effective dose equivalent pursuant to Section 340.240(c) of this Part;

5) The total effective dose equivalent when required by Section 340.220 of this Part; and

6) The total of the deep dose equivalent and the committed dose equivalent to
the organ receiving the highest total dose.

AGENCY NOTE: Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed.

b) Recordkeeping Frequency. The licensee or registrant shall make entries of the records specified in subsection (a) of this Section above at intervals not to exceed 1 year.

c) Recordkeeping Format. The licensee or registrant shall maintain the records specified in subsection (a) of this Section above on Agency forms IL 473-0298 (IDNS Form 4) and IL 473-0299 (IDNS Form 5), as applicable, in accordance with the instructions for the forms, or in clear and legible records containing all the information required by the forms.

d) The licensee or registrant shall maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, and the estimated date of conception, shall also be kept on file, but may be maintained separately from the dose records.

e) The licensee or registrant shall retain each required form or record until the Agency Department terminates each license or registration for which the record is required.

f) Upon termination of the license or registration, the records of doses received by individuals shall be transferred to the Agency Department.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1170  Records of Dose to Members of the Public

a) Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (see Sections 340.310 and 340.320 of this Part).

b) The licensee or registrant shall retain the records required by subsection (a) of this Section above until the Agency Department terminates each license or registration for which the record is required.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)
Section 340.1180  Records of Waste Disposal


AGENCY NOTE: Prior to January 28, 1981, the U.S. Nuclear Regulatory Commission permitted licensees to dispose of small quantities of licensed materials by burial in soil without specific Nuclear Regulatory Commission authorization. This was authorized pursuant to 10 CFR 20.304, which has been rescinded.

b) The licensee shall retain the records required by subsection (a) of this Part above until the Agency Department terminates each license for which the record is required.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1190  Records of Testing Entry Control Devices for Very High Radiation Areas

a) Each licensee or registrant shall maintain records of tests made pursuant to Section 340.630(b)(9) of this Part on entry control devices for very high radiation areas. These records must include the date, time and results of each such test of function.

b) The licensee or registrant shall retain the records required by subsection (a) of this Section above for 3 years after the record is made.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART M: REPORTS AND NOTIFICATIONS

Section 340.1205  Notification of Credible Threats

Upon notification to or by any Federal, State or local law enforcement agency or the U.S. Department of Homeland Security that radioactive material in possession of any licensee is the subject of a credible threat, the licensee shall:
AGENCY NOTE: "Credible threat" means any threat to radioactive material that a licensee believes warrants notice to law enforcement or any threat that law enforcement believes warrants notice to a licensee.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1210 Reports of Stolen, Lost or Missing Sources of Radiation

a) Telephone Reports. Each licensee or registrant shall report to the Agency Department by telephone each stolen, lost or missing source of radiation immediately after its absence becomes known to the licensee or registrant. This requirement does not apply to sources of radiation that are not required to be licensed or registered.

b) Written Reports. Each licensee or registrant required to make a report pursuant to subsection (a) of this Section above shall, within 30 days after making the telephone report, make a written report to the Agency Department setting forth the following information:

1) A description of the source of radiation involved, including for radioactive material, the kind, quantity and chemical and physical form; and, for radiation machines, the type of unit, the manufacturer, model and serial number;

2) A description of the circumstances under which the loss or theft occurred;

3) A statement of disposition, or probable disposition, of the source of radiation involved;

4) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
5) Actions that have been taken, or will be taken, to recover the source of radiation; and

6) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the theft or loss of sources of radiation.

c) Subsequent to filing the written report, the licensee or registrant shall also report any additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of such information.

d) The licensee or registrant shall prepare any report filed with the Agency pursuant to this Section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the report.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1220 Notification of Incidents

a) Immediate Notification. Notwithstanding any other requirements for notification, each licensee or registrant shall immediately report to the Agency discovery of an event that prevents immediate protective actions necessary to avoid releases of radioactive material or doses in excess of the regulatory limits, or each event involving a source of radiation possessed by the licensee or registrant that may have caused or threatens to cause any of the following conditions:

1) An individual to receive:

   A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

   B) A lens dose equivalent of 0.75 Sv (75 rem) or more; or

   C) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent of 2.5 Gy (250 rad) or more; or

2) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could
have received an intake five times the ALI, except the provisions of this subsection do not apply to locations where personnel are not normally stationed during routine operations, such as hot cells or process enclosures.

b) Twenty-four Hour Notification. Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Agency Department each event involving loss of control of a licensed or registered source of radiation possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

1) An individual to receive, in a period of 24 hours:
   A) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or
   B) An eye dose equivalent exceeding 0.15 Sv (15 rem); or
   C) A shallow dose equivalent to the skin or extremities or a total organ dose equivalent exceeding 0.5 Sv (50 rem); or

2) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational ALI, except the provisions of this subsection do not apply to locations where personnel are not normally stationed during routine operations, such as hot cells or process enclosures.

c) Additional Twenty-four Hour Notifications for Licensees. Each licensee shall notify the Agency Department within 24 hours after the discovery of any of the following events involving radioactive material:

1) An unplanned contamination event that:
   A) Requires access to the contaminated area by workers or the public to be restricted for more than 24 hours by imposing radiological controls in addition to those established by the licensee prior to the event or by prohibiting entry into the area;
   B) Involves a quantity of material greater than five times the lowest
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annual limit on intake specified in 10 CFR 20, Appendix B, effective January 1, 2004, for the material; and

C) Results in access to the area being restricted for a reason other than to either comply with operating procedures established by the licensee, or to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.

2) An event in which equipment is disabled or fails to function as designated when:

A) The equipment is required by regulation or license condition to prevent releases or doses exceeding regulatory limits, or to mitigate the consequences of an accident;

B) The equipment is required to be available and operable when it is disabled or fails to function; and

C) No redundant equipment is available and operable to perform the required safety function.

3) An event that requires unplanned medical treatment at a medical facility of an individual with radioactive contamination on the individual's clothing or body.

4) An unplanned fire or explosion damaging any licensed material or any device, container or equipment containing licensed material when:

A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in 10 CFR 20, Appendix B, effective January 1, 2004, for the material; and

B) The damage affects the integrity of the licensed material or its container.

d) Licensees or registrants shall make the reports required by subsections (a), (b) and (c) of this Section above by initial contact by telephone to the Agency Department and shall confirm the initial contact within 24 hours by overnight letter or telefacsimile to the Agency Department.
e) The licensee or registrant shall prepare each written report filed with the Agency pursuant to this Section so that names of individuals who have received exposure to sources of radiation are stated in a separate and detachable portion of the report.

f) The provisions of this Section do not apply to doses that result from planned special exposures, provided such doses are within the limits for planned special exposures and are reported pursuant to Section 340.1240 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1230 Reports of Exposures, Radiation Levels and Concentrations of Radioactive Material Exceeding the Constraints or Limits

a) Reportable Events. In addition to the notification required by Section 340.1220 of this Part, each licensee or registrant shall submit a written report to the Agency within 30 days after learning of any of the following occurrences:

1) Incidents for which notification is required by Section 340.1220 of this Part; or

2) Doses in excess of any of the following:

   A) The occupational dose limits for adults in Section 340.210 of this Part; or

   B) The occupational dose limits for a minor in Section 340.270 of this Part; or

   C) The limits for an embryo/fetus of a declared pregnant woman in Section 340.280 of this Part; or

   D) The limits for an individual member of the public in Section 340.310 of this Part; or

   E) Any applicable limit in the license; or

   F) The ALARA constraints for air emissions established pursuant to Section 340.110(d) of this Part; or
3) Levels of radiation or concentrations of radioactive material in:
   A) A restricted area in excess of any applicable limit in the license; or
   B) An unrestricted area in excess of ten times any applicable limit set forth in this Part or ten times any applicable limit set forth in the license, whether or not involving exposure of any individual in excess of the limits in Section 340.310 of

4) For licensees subject to the provisions of the U.S. Environmental Protection Agency's generally applicable environmental radiation standards in 40 CFR 190, effective July 1, 1993, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

b) Contents of Reports

1) Each report required by subsection (a) of this Section above shall include a description of the event, including the date, time and location of the event, the manufacturer and model number of any equipment that failed or malfunctioned and the identity, quantities and chemical forms of any radionuclides involved. Each report shall also describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:
   A) Estimates of each individual's dose;
   B) The levels of radiation and concentrations of radioactive material involved;
   C) The cause of the elevated exposures, dose rates or concentrations; and
   D) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards and associated license conditions.

2) Each report filed pursuant to subsection (a) of this Section above shall
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include for each individual exposed: the name, Social Security account number and date of birth. With respect to the limit for the embryo/fetus in Section 340.280 of this Part, the identifiers shall be those of the declared pregnant woman. The report shall be prepared so that this information is stated in a separate and detachable portion of the report.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1240 Reports of Planned Special Exposures

The licensee shall submit a written report to the Agency Department within 30 days following any planned special exposure conducted in accordance with Section 340.260 of this Part, informing the Agency Department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by Section 340.1150 of this Part.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1250 Notifications and Reports to Individuals

a) Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in 32 Ill. Adm. Code 400.130.

b) When a licensee or registrant is required pursuant to Section 340.1230 of this Part to report to the Agency Department any exposure of an individual to radiation or radioactive material, the licensee or registrant shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the Agency Department, and shall comply with the provisions of 32 Ill. Adm. Code 400.130(a).

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1260 Reports of Leaking or Contaminated Sealed Sources

The licensee shall file a report within 5 days with the Agency Department if the test for leakage or contamination required pursuant to Section 340.410 of this Part indicates a sealed source is leaking or contaminated. The report shall describe the equipment involved, the test results and the corrective action taken.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)
Section 340.1270 Reports of Missing Waste Shipments

Any shipment or part of a shipment for which acknowledgement is not received within the times set forth in Subpart K of this Part shall:

a) Be investigated by the shipper if the shipper has not received notification or receipt within 20 days after transfer; and

b) Be traced and reported. The investigation shall include tracing the shipment and filing a report with the Agency. Each licensee who conducts a trace investigation shall file a written report with the Agency within 2 weeks after completion of the investigation.

Each licensee who conducts a trace investigation pursuant to Section 340.1060(h) shall file a written report with the Department within 2 weeks after completion of the investigation.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

SUBPART N: ADDITIONAL REQUIREMENTS

Section 340.1310 Vacating Premises

Each specific licensee shall, no less than 30 days before vacating or relinquishing possession or control of premises which may have been contaminated with radioactive material as a result of his activities, notify the Agency in writing of intent to vacate.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)

Section 340.1320 Removal of Radioactive Contamination

Notwithstanding any exemptions contained in this Part, any person who uses, possesses, or stores radioactive material in such a manner as to cause uncontrolled contamination of any area shall, upon order of the Agency, remove or provide for the removal of such contaminants at his own expense through the use of an authorized transferee and shall decontaminate the installation to the lowest practicable level. Unless another value is specified in 32 Ill. Adm. Code 332, the values specified in Section 340. Appendix A of this Part may be used as guidelines for this purpose. These values, however, may be modified at specific installations at the discretion of the Agency.
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(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)
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Section 340. APPENDIX A  Decontamination Guidelines

a) Surface Contamination Guide

**Alpha Emitters:**

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<thead>
<tr>
<th>Type</th>
<th>Activity (Bq or pCi) per 100 cm²</th>
<th>Average Activity (dpm per 100 cm²)</th>
</tr>
</thead>
<tbody>
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<td>Removable</td>
<td>555 mBq (15 pCi)</td>
<td>15 pCi per 100 cm²</td>
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<td></td>
<td>33 dpm per 100 cm²</td>
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<td>1.67 Bq (45 pCi)</td>
<td>45 pCi per 100 cm²</td>
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<td></td>
<td></td>
<td>100 dpm per 100 cm²</td>
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<td>Total Fixed</td>
<td>16.7 Bq (450 pCi)</td>
<td>450 pCi per 100 cm²</td>
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<tr>
<td></td>
<td></td>
<td>1,000 dpm per 100 cm²</td>
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</tbody>
</table>

**Beta-Gamma Emitters:**

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<th>Type</th>
<th>Activity (Bq or pCi) per 100 cm²</th>
<th>Average Activity (dpm per 100 cm²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Removable</td>
<td>3.7 Bq (100 pCi)</td>
<td>100 pCi per 100 cm²</td>
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<td></td>
<td></td>
<td>222 dpm per 100 cm²</td>
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<tr>
<td></td>
<td>18.5 Bq (500 pCi)</td>
<td>500 pCi per 100 cm²</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,110 dpm per 100 cm²</td>
</tr>
<tr>
<td></td>
<td>37 Bq (1,000 pCi)</td>
<td>1,000 pCi per 100 cm²</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2,220 dpm per 100 cm²</td>
</tr>
<tr>
<td></td>
<td>185 Bq (5,000 pCi)</td>
<td>5,000 pCi per 100 cm²</td>
</tr>
</tbody>
</table>
NOTICE OF ADOPTED AMENDMENTS

Total Fixed (fixed) 2.5 microSv (250 microrem) per hour at 1 cm from surface = 250 microrem per hour at 1 cm from surface

b) Concentration in air and water: Appendix B, Table I and II of 10 CFR 20.

c) Concentrations in soil and other materials except water:

1) Radioactive material except source material and radium: Column II of 32 Ill. Adm. Code 330.Appendix A.

2) Source material and radium: Concentration of radionuclides above background concentrations for total radium, averaged over areas of 100 square meters, shall not exceed:

A) 185 mBq (5 pCi) per gram of dry soil, averaged over the first 15 centimeters below the surface; and

B) 185 mBq (5 pCi) per gram of dry soil, averaged over layers of 15 centimeters thickness more than 15 centimeters below the surface.

d) The level of gamma radiation measured at a distance of 100 centimeters from the surface shall not exceed background.

AGENCY NOTE: This Appendix A shall be used only as a guide. The Agency Department may require lower values in specific instances, depending upon radionuclides, type of surface, intended present and future use, etc.

(Source: Amended at 29 Ill. Reg. 20841, effective December 16, 2005)
NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Licenses and Radiation Safety Requirements for Irradiators

2) **Code Citation:** 32 Ill. Adm. Code 346

3) **Section Number:** Adopted Action:

   - 346.10    New Section
   - 346.20    New Section
   - 346.30    New Section
   - 346.40    New Section
   - 346.110   New Section
   - 346.130   New Section
   - 346.150   New Section
   - 346.210   New Section
   - 346.230   New Section
   - 346.250   New Section
   - 346.270   New Section
   - 346.290   New Section
   - 346.310   New Section
   - 346.330   New Section
   - 346.350   New Section
   - 346.370   New Section
   - 346.390   New Section
   - 346.410   New Section
   - 346.510   New Section
   - 346.530   New Section
   - 346.550   New Section
   - 346.570   New Section
   - 346.590   New Section
   - 346.610   New Section
   - 346.630   New Section
   - 346.650   New Section
   - 346.670   New Section
   - 346.690   New Section
   - 346.810   New Section
   - 346.830   New Section

4) **Statutory Authority:** Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40/10]

5) **Effective date of rules:** December 16, 2005
6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rules, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.


10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version:
   a) In Section 346.130(i), deleted the colon.
   b) In Section 346.130(l), changed "331.Appendix" to "331:Appendix".
   c) In Section 346.1390(l), after F" added a comma.
   d) In Section 346.210(a), changed "November" to "December".
   e) In Section 346.210(f), changed the second "a" to "of".
   f) In Section 346.230(f), changed "present" to "pre-set".
   g) In Section 346.230(i), changed "which" to "that".
   h) In Section 346.330(a), changed "September" to "December".
   i) In Section 346.330(b), changed "September" to "December".
   j) In Section 346.390, changed "September" to "December".
   k) In Section 346.410, changed "September" to "December".
   m) In Section 346.550(c), changed "two" to "2".
   n) In Section 346.570(c), changed "two" to "2".
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NOTICE OF ADOPTED RULES

o) In Section 346.590(c), changed "September" to "December".

p) In Section 346.670(b)(2), changed "preset" to "pre-set".

q) In Section 346.830(a)(4), changed the 2\textsuperscript{nd} "of" to "or".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace any emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: This rulemaking establishes criteria for licensing, design and performance, operations and record keeping for irradiators in the State of Illinois. This Part adopts U.S. Nuclear Regulatory Commission (NRC) language for compliance with Agreement State Status.

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

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/785-9880 (voice)
217/782-6133 (TDD)

The full text of the Adopted Rules begins on the next page:
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED RULES

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 346
LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

SUBPART A: GENERAL PROVISIONS

Section
346.10 Purpose
346.20 Scope
346.30 Incorporations by Reference
346.40 Definitions

SUBPART B: SPECIFIC LICENSING REQUIREMENTS

346.110 Application for Specific License
346.130 Specific License for Irradiators
346.150 Start of Construction

SUBPART C: DESIGN AND PERFORMANCE REQUIREMENTS OF IRRADIATORS

346.210 Performance Criteria for Sealed Sources
346.230 Access Control
346.250 Shielding
346.270 Fire Protection
346.290 Radiation Monitors
346.310 Control of Source Movement
346.330 Irradiator Pools
346.350 Source Rack Protection
346.370 Power Failures
346.390 Design Requirements
346.410 Construction Monitoring and Acceptance Testing

SUBPART D: OPERATION OF IRRADIATORS

346.510 Training
346.530 Operating and Emergency Procedures
346.550 Personnel Monitoring
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346.570 Radiation Surveys
346.590 Detection of Leaking Sources
346.610 Inspection and Maintenance
346.630 Pool Water Purity
346.650 Attendance During Operation
346.670 Entering and Leaving the Radiation Room
346.690 Irradiation of Explosive or Flammable Materials

SUBPART E: RECORDS

346.810 Records and Retention Periods
346.830 Reports

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].


SUBPART A: GENERAL PROVISIONS

Section 346.10 Purpose

This Part contains requirements for the issuance of a license by the Illinois Emergency Management Agency (Agency), authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate objects or materials using gamma radiation. Also included are radiation safety requirements for irradiators currently in operation.

Section 346.20 Scope

a) This Part is in addition to, and not in substitution for, other Parts in 32 Ill. Adm. Code: Chapter II, Subchapter b. The requirements of 32 Ill. Adm. Code: Chapter II, Subchapter b apply to applicants and licensees subject to this Part. Nothing in this Part relieves the licensee from complying with other applicable Federal, State and local regulations governing the siting, zoning, land use and building code requirements for industrial facilities.

b) This Part also applies to panoramic irradiators that have either dry or wet storage of the radioactive sealed sources and to underwater irradiators in which both the source and the product being irradiated are under water. Irradiators whose dose rates exceed 5 grays (500 rads) per hour at 1 meter from the radioactive sealed
sources in air or in water, as applicable to the irradiator type, are covered by this Part.

c) This Part does not apply to self-contained dry-source-storage irradiators (those in which both the source and the area subject to irradiation are contained within a device and are not accessible by personnel), medical radiology or teletherapy, radiography (the irradiation of materials for nondestructive testing purposes), gauging, or open-field (agricultural) irradiations.

Section 346.30 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of rules, standards or guidelines that have been incorporated by reference are available for public inspection and copying at the Agency, 1035 Outer Park Drive, Springfield, Illinois.

AGENCY NOTE: In this Part, the Agency has incorporated by reference Title 10 of the Code of Federal Regulations (10 CFR 36; 2004).

Section 346.40 Definitions

"Annually" means at intervals not to exceed 12 months.

"Doubly encapsulated sealed source" means a sealed source in which the radioactive material is sealed within a capsule and that capsule is sealed within another capsule.

"Irradiator" means a facility that uses radioactive sealed sources for the irradiation of objects or materials and in which radiation dose rates exceeding 5 grays (500 rads) per hour exist at 1 meter from the sealed radioactive sources in air or water, as applicable to the irradiator type, but does not include irradiators in which both the sealed source and the area subject to irradiation are contained within a device and are not accessible to personnel.

"Irradiator operator" means an individual who has successfully completed the training and testing described in Section 346.510 of this Part and is authorized by the terms of the license to operate the irradiator without a supervisor present.
"Panoramic dry-source-storage irradiator" means an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which sources are stored in shields made of solid materials. The term includes beam-type dry-source-storage irradiators in which only a narrow beam of radiation is produced for performing irradiations.

"Panoramic irradiator" means an irradiator in which the irradiations are done in air and in areas potentially accessible to personnel. The term includes beam-type irradiators.

"Panoramic wet-source-storage irradiator" means an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored under water in a storage pool.

"Pool irradiator" means any irradiator at which the sources are stored or used in a pool of water, including panoramic wet-source-storage irradiators and underwater irradiators.

"Product conveyor system" means a system for moving the product to be irradiated to, from and within the area where irradiation takes place.

"Radiation room" means a shielded room in which irradiations take place. Underwater irradiators do not have radiation rooms.

"Sealed source" means any radioactive material that is used as a source of radiation and is encased in a capsule designed to prevent leakage or escape of the radioactive material.

"Seismic area" means any area where the probability of a horizontal acceleration in rock of more than 0.3 times the acceleration of gravity in 250 years is greater than 10 percent, as designated by the U.S. Geological Survey.

"Underwater irradiator" means an irradiator in which the sources always remain shielded under water and personnel do not have access to the sealed sources or the space subject to irradiation without entering the pool.

SUBPART B: SPECIFIC LICENSING REQUIREMENTS

Section 346.110 Application for Specific License
NOTICE OF ADOPTED RULES

A person, as defined in 32 Ill. Adm. Code 310.20, may file an application for a specific license authorizing the use of sealed sources in an irradiator on the Agency's application form entitled "Application Form for Non-Medical Radioactive Material License". Applications shall be filed in accordance with 32 Ill. Adm. Code 330.240.

Section 346.130 Specific License for Irradiators

The Agency will approve an application for a specific license to operate an irradiator if the applicant meets the requirements contained in this Section.

a) The applicant shall satisfy the general requirements specified in 32 Ill. Adm. Code 330.250 and the requirements contained in this Part.

b) The application shall describe the training provided to irradiator operators including:

1) Classroom training;
2) On-the-job or simulator training;
3) Safety reviews;
4) Means employed by the applicant to test each operator's understanding of the Agency's regulations and licensing requirements and the irradiator operating and emergency procedures; and
5) Minimum training and experience of personnel who may provide training.

c) The application shall include an outline of the written operating and emergency procedures listed in Section 346.530 of this Part that describe the radiation safety aspects of the procedures.

d) The application shall describe the organizational structure for managing the irradiator, specifically the radiation safety responsibilities and authorities of the radiation safety officer and those management personnel who have important radiation safety responsibilities or authorities. In particular, the application shall specify who, within the management structure, has the authority to stop unsafe operations. The application shall also describe the training and experience required for the position of radiation safety officer.
The application shall include a description of the access control systems required by Section 346.230 of this Part, the radiation monitors required by Section 346.290 of this Part, the method of detecting leaking sources required by Section 346.590 of this Part, including the sensitivity of the method, and a diagram of the facility that shows the location of all required interlocks and radiation monitors.

An application for a panoramic irradiator shall include a description of the facility shielding and fire protection system.

An application for a pool irradiator shall include a description of the irradiator pool construction, water level indicators, purification systems and source rack and protection system.

If the applicant intends to perform leak testing of dry-source-storage sealed sources, the applicant shall establish procedures for leak testing and submit a description of these procedures to the Agency. The description shall include the:

1) Instruments to be used;

2) Methods of performing the analysis; and

3) Pertinent experience of the personnel analyzing the samples.

If the licensee's personnel are to load or unload sources, the applicant shall describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facility, the loading or unloading shall be done by an organization specifically authorized by the Agency, U.S. Nuclear Regulatory Commission or an Agreement State to load or unload irradiator sources.

The applicant shall describe the inspection and maintenance checks, including the frequency of the checks required by Section 346.610 of this Part.

A professional engineer licensed in Illinois shall seal all construction and design plans and specification documents submitted for review by the Agency.

Appropriate Agency license fees, as specified in 32 Ill. Adm. Code 331: Appendix F, shall be paid prior to the approval of the specific license.

Section 346.150 Start of Construction
The applicant may not begin construction of a new irradiator prior to submission to the Agency of an application for a license for the irradiator. As used in this Section, the term "construction" includes the construction of any portion of the permanent irradiator structure on the site but does not include: engineering and design work, purchase of a site, site surveys or soil testing, site preparation, site excavation, construction of warehouse or auxiliary structures, and other similar tasks. Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of the Radiation Protection Act of 1990 and regulations and orders issued under the Act.

SUBPART C: DESIGN AND PERFORMANCE REQUIREMENTS OF IRRADIATORS

Section 346.210 Performance Criteria for Sealed Sources

a) Requirements. Sealed sources installed after December 1, 2005:

1) Shall have an evaluation sheet issued by the Agency, an Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission;

2) Shall be doubly encapsulated;

3) Shall use radioactive material that is as nondispersible as practical and that is as insoluble as practical if the source is used in a wet-source-storage or wet-source-change irradiator. Cs-137 sources are prohibited from use in a wet-source-storage or wet-source-change irradiator;

4) Shall be encapsulated in a material resistant to general corrosion and to localized corrosion, such as 316L stainless steel or other material with equivalent resistance, if the sources are for use in irradiator pools;

5) In prototype testing of the sealed source, shall have been leak tested and found leak-free after each of the tests described in subsections (b) through (g) of this Section.

b) Temperature. The test source shall be held at -40°C for 20 minutes, 600°C for one hour, and then be subjected to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds.

c) Pressure. The test source shall be twice subjected for at least 5 minutes to an external pressure (absolute) of 2 million newtons per square meter.
d) Impact. A 2-kilogram steel weight, 2.5 centimeters in diameter, shall be dropped from a height of 1 meter onto the test source.

e) Vibration. The test source shall be subjected 3 times for 10 minutes each to vibrations sweeping from 25 hertz to 500 hertz with a peak amplitude of 5 times the acceleration of gravity. In addition, each test source shall be vibrated for 30 minutes at each resonant frequency found.

f) Puncture. A 50-gram weight and pin (0.3-centimeter pin diameter) shall be dropped from a height of 1 meter onto the test source.

g) Bend. If the length of the source is more than 15 times larger than the minimum cross-sectional dimension, the test source shall be subjected to a force of 2000 newtons at its center, equidistant from the two support cylinders, the distance between which is 10 times the minimum cross-sectional dimension of the source.

Section 346.230 Access Control

a) Each entrance to a radiation room at a panoramic irradiator shall have a door or other physical barrier to prevent inadvertent entry of personnel if the sources are not in the shielded position. Product conveyer systems may serve as barriers as long as they reliably and consistently function as a barrier. It shall not be possible to move the sources out of their shielded position if the door or barrier is open. Opening the door or barrier while the sources are exposed shall cause the sources to return promptly to their shielded position. The personnel entrance door or barrier shall have a lock that is operated by the same key used to move the sources. The doors and barriers shall not prevent any person in the radiation room from leaving.

b) In addition, each entrance to a radiation room at a panoramic irradiator shall have an independent backup access control to detect personnel entry while the sources are exposed. Detection of entry while the sources are exposed shall cause the sources to return to their fully shielded position and shall also activate a visible and audible alarm to make the person entering the room aware of the hazard. The alarm shall also alert at least one other person who is onsite of the entry. That person shall be trained on how to respond to the alarm and prepared to promptly render or summon assistance.
c) A radiation monitor shall be provided to detect the presence of high radiation levels in the radiation room of a panoramic irradiator before personnel entry. The monitor shall be integrated with a personnel access door to prevent room access when radiation levels are high. Attempted personnel entry while the monitor measures high radiation levels shall activate the alarm described in subsection (b) of this Section. The monitor may be located in the entrance (normally referred to as the maze) but not in the direct radiation beam.

d) Before the sources move from their shielded position in a panoramic irradiator, the source control shall automatically activate conspicuous visible and audible alarms to alert personnel in the radiation room that the sources will be moved from their shielded position. The alarms shall give personnel enough time to leave the room before the sources leave the shielded position.

e) Each radiation room at a panoramic irradiator shall have a clearly visible and readily accessible control that would allow a person in the room to make the sources return to their fully shielded position.

f) Each radiation room of a panoramic irradiator shall contain a control that prevents the sources from moving from the shielded positions unless the control has been activated and the door or barrier to the radiation room has been closed within a pre-set time after activation of the control.

g) Each entrance to the radiation room of a panoramic irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator shall be posted as required by 32 Ill. Adm. Code 340.920. Radiation postings for panoramic irradiators shall comply with the posting requirements of 32 Ill. Adm. Code 340.920, except that signs may be removed, covered, or otherwise made inoperative when the sources are fully shielded.

h) If the radiation room of a panoramic irradiator has roof plugs or other movable shielding, it shall not be possible to operate the irradiator unless the shielding is in its proper location. This requirement may be met by interlocks that prevent operation if shielding is not placed properly or by an operating procedure requiring inspection of shielding before operating.

i) Underwater irradiators shall have a personnel access barrier around the pool that shall be locked to prevent access when the irradiator is not attended. Only operators and facility management shall have access to keys to the personnel access barrier. There shall be an intrusion alarm to detect unauthorized entry
when the personnel access barrier is locked. Activation of the intrusion alarm shall alert a person (not necessarily onsite) who is prepared to respond or summon assistance.

Section 346.250 Shielding

a) The radiation dose rate in areas that are normally occupied during operations of a panoramic irradiator may not exceed 0.02 millisievert (2 millirems) per hour at any location 30 centimeters or more from the wall of the room when the sources are exposed. The dose rate shall be averaged over an area not to exceed 100 square centimeters having no linear dimensions greater than 20 cm. Areas where the radiation dose rate exceeds 0.02 millisievert (2 millirems) per hour shall be locked, roped off or posted.

b) The radiation dose at 30 centimeters over the edge of the pool of a pool irradiator may not exceed 0.02 millisievert (2 millirems) per hour when the sources are in fully shielded position.

c) The radiation dose rate at 1 meter from the shield of a dry-source-storage panoramic irradiator when the source is shielded may not exceed 0.02 millisievert (2 millirems) per hour and at 5 centimeters from the shield may not exceed 0.2 millisievert per hour.

Section 346.270 Fire Protection

a) The radiation room at a panoramic irradiator shall have heat and smoke detectors. The detectors shall activate an audible alarm. The alarm shall be capable of alerting personnel prepared to summon assistance promptly. The sources shall automatically become fully shielded if a fire is detected.

b) The radiation room at a panoramic irradiator shall be equipped with a fire extinguishing system capable of extinguishing a fire without the entry of personnel into the room. The system for the radiation room shall have a shut-off valve to control flooding into unrestricted areas.

c) For fire suppression systems using an extinguishing gas, the radiation room ventilation system shall automatically shut down when the suppression system is activated.

Section 346.290 Radiation Monitors
a) Irradiators with automatic product conveyor systems shall have a radiation monitor with an audible alarm located to detect loose radioactive sources that are carried toward the product exit. If the monitor detects a source, an alarm shall sound and product conveyors shall stop automatically and the sources shall become fully shielded. The alarm shall be capable of alerting personnel in the facility who are prepared to summon assistance. Underwater irradiators in which the product moves within an enclosed stationary tube are exempt from the requirements of this subsection.

b) Underwater irradiators that are not in a shielded radiation room shall have a radiation monitor over the pool to detect abnormal radiation levels. The monitor shall have an audible alarm and a visible indicator at entrances to the personnel access barrier around the pool. The audible alarm may have a manual shut-off. The alarm shall be capable of alerting personnel who are prepared to respond promptly.

Section 346.310 Control of Source Movement

a) The mechanism that moves the source of a panoramic irradiator shall require a key to actuate. Actuation of the mechanism shall cause an audible signal to indicate that the sources are leaving the shielded position. Only one key may be in use at any time, and only operators or facility management may possess it. The key shall be attached to a portable radiation survey meter by a chain or cable. The lock for source control shall be designed so that the key may not be removed if the sources are in an unshielded position. The personnel entrance door or barrier to the radiation room shall require the same key.

b) The console of a panoramic irradiator shall have a source position indicator that indicates when the sources are in the fully shielded position, when the sources are in transit and when the sources are exposed.

c) The control console of a panoramic irradiator shall have a control that promptly returns the sources to the shielded position.

d) Each control for a panoramic irradiator shall be clearly marked as to its function.

Section 346.330 Irradiator Pools

a) For licenses initially issued after December 1, 2005, irradiator pools shall either:
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1) Have a water-tight stainless steel liner or a liner metallurgically compatible with other components in the pool; or

2) Be constructed so that there is a low likelihood of substantial leakage and have a surface designed to facilitate decontamination.

In either case, the licensee shall have a method to safely store the sources during repair of the pool.

b) For licenses initially issued after December 1, 2005, irradiator pools shall have no outlets more than 0.5 meter below the normal low water level that could allow water to drain out of the pool. Pipes that have intakes more then 0.5 meter below the normal low water level and that could act as siphons shall have siphon breakers to prevent the siphoning of pool water.

c) A means shall be provided to replenish water losses from the pool.

d) A visible indicator shall be provided in a clearly visible location to indicate if the pool water level is below the normal low water level or above the normal high water level.

e) Irradiator pools shall be equipped with a purification system designed to be capable of maintaining the water during normal operation at a conductivity of 20 microsiemens per centimeter or less and with a clarity so that the sources can be seen clearly.

f) A physical barrier, such as a railing or cover, shall be used around or over radiator pools during normal operation to prevent personnel from accidentally falling into the pool. The barrier may be removed during maintenance, inspection and service operations.

g) If long handled tools or poles are used in irradiator pools, the radiation dose rate in the handling areas of the tools may not exceed 0.02 millisievert (2 millirems) per hour.

Section 346.350 Source Rack Protection
If the product to be irradiated moves on a product conveyor system, the source rack and the mechanism that moves the rack shall be protected by a barrier or guides to prevent product carriers from hitting or touching the mechanism.

**Section 346.370 Power Failures**

a) If electrical power at a panoramic irradiator is lost for longer than 10 seconds, the sources shall automatically return to the shielded position.

b) The lock on the door of the radiation room of a panoramic irradiator shall not be deactivated by a power failure.

c) During a power failure, the area of any irradiator where the sources are located may be entered only when using an operable and calibrated radiation survey meter.

d) If non-electrical power is used to control or operate any irradiator safety feature, failure of that power source shall automatically return the radiation sources to their fully shielded position.

**Section 346.390 Design Requirements**

Irradiators whose construction begins after December 1, 2005 shall meet the design requirements of this Section.

a) Shielding. For panoramic irradiators, the licensee shall design shielding walls to meet generally accepted building code requirements for reinforced concrete and design the walls, wall penetrations, and entranceways to meet the radiation shielding requirements of Section 346.250 of this Part. If the irradiator will use more than $2 \times 10^{17}$ becquerels (5 million curies) of activity, the licensee shall evaluate the effects of heating of the shielding by the irradiator sources.

b) Foundations. For panoramic irradiators, the licensee shall design the foundation, with consideration given to soil characteristics, to ensure it is adequate to support the weight of the facility shield walls.

c) Pool integrity. For pool irradiators, the licensee shall design the pool to assure that it is leak resistant, that it is strong enough to bear the weight of the pool water and shipping casks, that a dropped cask would not fall on sealed sources, that all outlets or pipes meet the requirements of Section 346.330(b) of this Part and that
metal components are metallurgically compatible with other components in the pool.

d) Water handling system. For pool irradiators, the licensee shall verify that the design of the water purification system is adequate to meet the requirements of Section 346.330(e) of this Part. The system shall be designed so that water leaking from the system does not drain to unrestricted areas without being monitored.

e) Radiation monitors. For all irradiators, the licensee shall evaluate the location and sensitivity of the monitor to detect sources carried by the product conveyor system as required by Section 346.290(a) of this Part. The licensee shall verify that the product is designed to stop before a source on the product conveyor would cause a radiation overexposure to any person. For pool irradiators, if the licensee uses radiation monitors to detect contamination under Section 346.590(b) of this Part, the licensee shall verify that the design of radiation monitoring systems to detect pool contamination included sensitive detectors located close to where contamination is likely to concentrate.

f) Source rack. For pool irradiators, the licensee shall verify that there are no crevices on the source or between the source and source holder that would promote corrosion on a critical area of the source. For panoramic irradiators, the licensee shall determine that source rack drops due to loss of power will not damage the source rack and that source rack drops due to failure of cables (or alternative means of support) will not cause loss of integrity of sealed sources. For panoramic irradiators, the licensee shall review the design of the mechanism that moves the sources to assure that the likelihood of a stuck source is low and that, if the rack sticks, a means exists to free it with minimal risk to personnel.

g) Access control. For panoramic irradiators, the licensee shall verify from the design and logic diagram that the access control system will meet the requirements of Section 346.230 of this Part.

h) Fire protection. For panoramic irradiators, the licensee shall verify that the number, location and spacing of the smoke and heat detectors are appropriate to detect fires and that the detectors are protected from mechanical and radiation damage. The licensee shall verify that the design of the fire extinguishing system provides the necessary discharge patterns, densities, and flow characteristics for complete coverage of the radiation room and that the system is protected from mechanical and radiation damage.
i) Source return. For panoramic irradiators, the licensee shall verify that the source rack will automatically return to the fully shielded position if offsite power is lost for more than 10 seconds.

j) Seismic. For panoramic irradiators to be built in seismic areas, the licensee shall design the reinforced concrete radiation shields to retain their integrity in the event of an earthquake by designing to the seismic requirements of an appropriate source, such as either the American Concrete Institute Standard "Building Code Requirements for Reinforced Concrete" (ACI 318-89), or "Special Provisions for Seismic Design" (Chapter 21) or local building codes, whichever is most current.

k) Wiring. For panoramic irradiators, the licensee shall verify that electrical wiring and electrical equipment in the radiation room are selected to minimize failures due to prolonged exposure to radiation.

Section 346.410 Construction Monitoring and Acceptance Testing

The requirements of this Section shall be met by irradiators whose construction begins after December 1, 2005. The requirements shall be met prior to loading sources.

a) Shielding. For panoramic irradiators, the licensee shall monitor the construction of the shielding to verify that its construction meets design specifications and generally accepted building code requirements for reinforced concrete.

b) Foundations. For panoramic irradiators, the licensee shall monitor the construction of the foundations to verify that their construction meets design specifications.

c) Pool integrity. For pool irradiators, the licensee shall verify that the pool meets design specifications and shall test the integrity of the pool. The licensee shall verify that outlets and pipes meet the requirements of Section 346.330(b) of this Part.

d) Water handling systems. For pool irradiators, the licensee shall verify that the water purification system, the conductivity meter and the water level indicators operate properly.

e) Radiation monitors. For all irradiators, the licensee shall verify the proper operation of the monitor to detect sources carried on the product conveyor system.
and the related alarms and interlocks required by Section 346.290(a) of this Part.
For pool irradiators, the licensee shall verify the proper operation of the radiation monitors and the related alarm if used to meet Section 346.590(b) of this Part. For underwater irradiators, the licensee shall verify the proper operation of the over-the-pool monitor, alarms, and interlocks required by Section 346.290(b) of this Part.

f) Source rack. For panoramic irradiators, the licensee shall test the movement of the source racks for proper operation prior to source loading. Testing shall include source rack lowering due to simulated loss of power. For all irradiators with product conveyor systems, the licensee shall observe and test the operation of the conveyor system to assure that the requirements in Section 346.350 of this Part are met for protection of the source rack and the mechanism that moves the rack. Testing shall include tests of any limit switches and interlocks used to protect the source rack and mechanism that moves the rack from moving product carriers.

g) Access control. For panoramic irradiators, the licensee shall test the completed access control system to assure that it functions as designed and that all alarms, controls and interlocks work properly.

h) Fire protection. For panoramic irradiators, the licensee shall test the ability of the heat and smoke detectors to detect a fire, to activate alarms, and to cause the source rack to automatically become fully shielded. The licensee shall test the operability of the fire extinguishing system.

i) Source return. For panoramic irradiators, the licensee shall demonstrate that the source racks can be returned to their fully shielded positions without offsite power.

j) Computer systems. For panoramic irradiators that use a computer system to control the access control system, the licensee shall verify that the access control system will operate properly if offsite power is lost and shall verify that the computer has security features that prevent an irradiator operator from commanding the computer to override the access control system when it is required to be operable.

k) Wiring. For panoramic irradiators, the licensee shall verify that the electrical wiring and electrical equipment that were installed meet the design specifications.
Section 346.510 Training

a) Before personnel are permitted to operate an irradiator without a supervisor present, they shall be instructed in:

1) The fundamentals of radiation protection applied to irradiators (including the differences between external radiation and radioactive contamination; units of radiation dose; IEMA, Division of Nuclear Safety, dose limits; why large radiation doses shall be avoided; how shielding and access controls prevent large doses; how an irradiator is designed to prevent contamination; the proper use of survey meters and personnel dosimeters; other radiation safety features of an irradiator; and the basic function of the irradiator);

2) The requirements of this Part and 32 Ill. Adm. Code 340 and 400 that are relevant to the irradiator;

3) The operation of the irradiator;

4) Those operating and emergency procedures listed in Section 346.530 of this Part that the person is responsible for performing;

5) Case histories of accidents or problems involving irradiators; and

6) Radiation detection and measurement instrumentation and their proper use and personnel dosimeters.

b) Before personnel are permitted to operate an irradiator without a supervisor present, they shall pass a written test on the instruction received consisting primarily of questions based on the licensee's operating and emergency procedures that the person is responsible for performing and other operations necessary to safely operate the irradiator without supervision.

c) Before personnel are permitted to operate an irradiator without a supervisor present, they shall have received on-the-job training or simulator training in the use of the irradiator as described in the license application, and shall also demonstrate the ability to perform those portions of the operating and emergency procedures that they are to perform.
d) The licensee shall conduct safety reviews for irradiator operators at least annually. The licensee shall give each operator a brief written test on the information. Each safety review shall include, to the extent appropriate, each of the following:

1) Changes in operating and emergency procedures since the last review, if any;
2) Changes in regulations and license conditions since the last review, if any;
3) Reports on recent accidents, mistakes or problems that have occurred at irradiators, if any;
4) Relevant results of inspections of operator safety performance;
5) Relevant results of the facility's inspection and maintenance checks; and
6) A drill to practice an emergency or abnormal event procedure.

e) The licensee shall evaluate the safety performance of each irradiator operator at least annually to ensure that regulations, license conditions and operating and emergency procedures are followed. The licensee shall discuss the results of the evaluation with the operator and shall instruct the operator on how to correct any mistakes or deficiencies observed.

f) Personnel who will be permitted unescorted access to the radiation room of the irradiator or the area around the pool of an underwater irradiator, but who have not received the training required for the operators and the radiation safety officer, shall be instructed and tested in any precautions they should take to avoid radiation exposure, any procedures or parts of procedures listed in Section 346.530 of this Part that they are expected to perform or comply with, and their proper response to alarms required in this Part. Tests may be oral.

g) Personnel who shall be prepared to respond to alarms required by Sections 346.230(b), 346.230(i), 346.270(a), 346.290(a), 346.290(b), and 346.590(b) of this Part shall be trained and tested on how to respond. Each person shall be retested at least once a year. Tests may be oral.

Section 346.530 Operating and Emergency Procedures
a) The licensee shall have and follow written operating procedures for:

1) Operation of the irradiator, including entering and leaving the radiation room;

2) Use of personnel dosimeters;

3) Surveying the shielding of panoramic irradiators;

4) Monitoring pool water for contamination while the water is in the pool and before release of pool water to unrestricted areas;

5) Leak testing of sources;

6) Inspection and maintenance checks required by Section 346.610 of this Part;

7) Loading, unloading and repositioning sources, if the operations will be performed by the licensee; and

8) Inspection of movable shielding required by Section 346.230(h) of this Part, if applicable.

b) The licensee shall have and follow emergency or abnormal event procedures, appropriate for the irradiator type, for:

1) Sources stuck in the unshielded position;

2) Failure of hoists or cables involving the source racks;

3) Personnel overexposures;

4) A radiation alarm from the product exit portal monitor or pool monitor;

5) Detection of leaking sources, pool contamination or alarm caused by contamination of pool water;

6) A low or high water level indicator or an abnormal water loss or leakage from the source storage pool;
NOTICE OF ADOPTED RULES

7) A prolonged loss of electrical power;

8) A fire alarm or explosion in the radiation room;

9) An alarm indicating unauthorized entry into the radiation room, area around the pool or another alarmed area;

10) Natural phenomena, including an earthquake, tornado, flooding or other phenomena as appropriate for the geological location of the facility; and

11) The jamming of automatic conveyor systems.

Section 346.550 Personnel Monitoring

a) Personnel monitoring shall be provided in accordance with the requirements of 32 Ill. Adm. Code 340.510(d), (e) and (f).

b) Each personnel dosimeter shall be assigned to and worn by only one person. Film badges shall be processed at least monthly, and other personnel dosimeters shall be processed at least quarterly.

c) Other personnel who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only 2 people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this subsection, a check of their response to radiation shall be done at least annually. Acceptable dosimeters shall read within ±30 percent of the true radiation dose.

Section 346.570 Radiation Surveys

a) A radiation survey of the area outside the shielding of the radiation room of a panoramic irradiator shall be conducted with the sources in the exposed position before the facility starts to operate. A radiation survey of the area about the pool of pool irradiators shall be conducted after the sources are loaded but before the facility starts to operate. Additional radiation surveys of the shielding shall be performed at intervals not to exceed 3 years and before resuming operation after addition of new sources or any modification to the radiation room shielding or structure that might increase dose rates.
b) If the radiation levels specified in Section 346.250 of this Part are exceeded, the facility shall be modified to comply with the requirements in Section 346.250 of this Part.

c) Portable radiation survey meters used for required surveys shall be calibrated at least annually to an accuracy of ±20% for the gamma energy of the sources in use. The calibration shall be done at 2 points on each scale or, for digital instruments, at one point per decade over the range that will be used. Portable radiation survey meters shall be a type that does not saturate and read zero at high radiation dose rate.

d) Water from the irradiator pool, other potentially contaminated liquids and sediments from pool vacuuming shall be monitored for radioactive contamination before release to unrestricted areas. Radioactive concentrations shall not exceed those specified in 32 Ill. Adm. Code 340.1030.

e) Before releasing resins for unrestricted use, the resins shall be monitored in an area with a background level less than 0.5 microsievert (0.05 millirem) per hour. The resins may be released only if the survey does not detect radiation levels above background radiation levels. The survey meter used shall be capable of detecting radiation levels of 0.5 microsievert (0.05 millirem) per hour.

f) For pool irradiators, all empty or loaded source transport containers shall be surveyed for removable contamination prior to insertion into the pool.

Section 346.590 Detection of Leaking Sources

a) Each dry-source-storage sealed source shall be tested for leakage in accordance with the requirements of 32 Ill. Adm. Code 340.410.

b) For pool irradiators, sources may not be put into the pool unless the licensee tests the sources for leaks or has a certificate from a transferor that a leak test has been done within the 6 months before the transfer. Water from the pool shall be checked for contamination each day the irradiator operates. The check may be done either by using a radiation monitor on a pool water circulating system or by analysis of a sample of pool water. If a check for contamination is done by analysis of a sample of pool water, the results of the analysis shall be available within 24 hours. If the licensee uses a radiation monitor on a pool water circulating system, the detection of above normal radiation levels shall activate an alarm. The alarm set-point shall be set as low as practical, but high enough to
avoid false alarms. The licensee may reset the alarm set-point to a higher level if necessary to operate the pool water purification system to clean up contamination in the pool if specifically provided for in written emergency procedures.

c) If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired or disposed of by an NRC or Agreement State licensee that is authorized to perform these functions. The licensee shall promptly check its personnel, equipment, facilities and irradiated product for radioactive contamination. No product may be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee shall arrange to locate and survey that product for contamination. If any personnel are found to be contaminated, decontamination shall be performed promptly. If contaminated equipment, facilities or products are found, the licensee shall have them decontaminated or disposed of by an NRC or Agreement State licensee that is authorized to perform these functions. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in Table 2, Column 2, Appendix B to 10 CFR 20 (December 1, 2005). (See 32 Ill. Adm. Code 340.1220 for reporting requirements.)

Section 346.610 Inspection and Maintenance

a) The licensee shall perform inspection and maintenance checks that include, at a minimum, each of the following at the frequency specified in the license or license application:

1) Operability of each aspect of the access control system required by Section 346.230 of this Part.

2) Functioning of the source position indicator required by Section 346.310(b) of this Part.

3) Operability of the radiation monitor for radioactive contamination in pool water required by Section 346.590(b) of this Part using a radiation check source, if applicable.

4) Operability of the over-pool radiation monitor at underwater irradiators as required by Section 346.290(b) of this Part.
NOTICE OF ADOPTED RULES

5) Operability of the product exit monitor required by Section 346.290(a) of this Part.

6) Operability of the emergency source return control required by Section 346.310(c) of this Part.

7) Leak-tightness of systems through which pool water circulates (visual inspection).

8) Operability of heat and smoke detectors and extinguisher systems required by Section 346.270 of this Part (but without turning extinguishers on).

9) Operability of the mean of pool water replenishment required by Section 346.330(c) of this Part.

10) Operability of the indicators of high and low pool water levels required by Section 346.330(d) of this Part.

11) Operability of the intrusion alarm required by Section 346.230(i) of this Part, if applicable.

12) Functioning and wear of the system, mechanisms and cables used to raise and lower sources.

13) Condition of the barrier to prevent products from hitting the sources or source mechanism as required by Section 346.350 of this Part.

14) Amount of water added to the pool to determine if the pool is leaking.

15) Electrical wiring on required safety systems for radiation damage.

16) Pool water conductivity measurements and analysis as required by Section 346.630(b) of this Part.

b) Malfunctions and defects found during inspection and maintenance checks shall be repaired without undue delay.

Section 346.630 Pool Water Purity
a) Pool water purification system shall be run sufficiently to maintain the conductivity of the pool water below 20 microsiemens per centimeter under normal circumstances. If pool water conductivity rises above 20 microsiemens per centimeter, the licensee shall take prompt actions to lower the pool water conductivity and shall take corrective actions to prevent future recurrences.

b) The licensee shall measure the pool water conductivity frequently enough, but no less than weekly, to assure that the conductivity remains below 20 microsiemens per centimeter. Conductivity meters shall be calibrated at least annually.

Section 346.650 Attendance During Operation

a) Both an irradiator operator and at least one other person, trained on how to respond and prepared to promptly render or summon assistance if the access control alarm sounds, shall be present onsite:

1) Whenever the irradiator is operated using an automatic product conveyor system; and

2) Whenever the product is moved into or out of the radiation room when the irradiator is operated in a batch mode.

b) At a panoramic irradiator at which static irradiations (no movement of the product) are occurring, personnel who have received the training on how to respond to alarms described in Section 346.510(g) of this Part shall be onsite.

c) At an underwater irradiator, an irradiator operator shall be present at the facility whenever the product is moved into or out of the pool. Personnel who move the product into or out of the pool of an underwater irradiator need not be qualified as irradiator operators; however, they shall have received the training described in Section 346.510(f) and (g) of this Part. Static irradiations may be performed without personnel present at the facility.

Section 346.670 Entering and Leaving the Radiation Room

a) Upon first entering the radiation room of a panoramic irradiator after an irradiation, the irradiator operator shall use a survey meter to determine that the source has returned to its fully shielded position. The operator shall check the functioning of the survey meter with a radiation check source prior to entry.
b) Before exiting from and locking the door to the radiation room of a panoramic irradiator prior to a planned irradiation, the irradiator operator shall:

1) Visually inspect the entire radiation room to verify that no one else is in it; and

2) Activate a control in the radiation room that permits the sources to be moved from the shielded position only if the door to the radiation room is locked within a pre-set time after setting the control.

c) During a power failure, the area around the pool of an underwater irradiator may not be entered without using an operable and calibrated radiation survey meter, unless the over-the-pool monitor required by Section 346.290(b) of this Part is operating with backup power.

Section 346.690 Irradiation of Explosive or Flammable Materials

a) Irradiation of explosive material is prohibited unless the licensee has received prior written authorization from the Agency. Authorization will not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems or cause radiation overexposure of personnel.

b) Irradiation of more than small quantities of flammable material (flashpoint below 140°F) is prohibited in panoramic irradiators unless the licensee has received prior written authorization from the Agency. Authorization will not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposure of licensee or offsite responding personnel.

SUBPART E: RECORDS

Section 346.810 Records and Retention Periods

The licensee shall maintain the following records at the irradiator for the periods specified.

a) A copy of the license, license conditions, documents incorporated into a license by reference and amendments to these materials, until superseded by new documents or until the Agency terminates the license for documents not superseded.
b) Records of each individual's training, tests and safety reviews provided to meet the requirements of Section 346.510(a), (b), (c), (d), (f), and (g) of this Part, until 5 years after the individual terminates work.

c) Records of the annual evaluations of the safety performance of irradiator operators required by Section 346.510(e) of this Part, for 5 years after the evaluation.

d) A copy of the current operating and emergency procedures required by Section 346.530 of this Part, until superseded or the Agency terminates the license. Records of the radiation safety officer's review and approval of changes in procedure as required by Section 346.530(c)(3) of this Part, retained for 5 years from the date of the change.

e) Evaluations of personnel dosimeters required by Section 346.550 of this Part, until the Agency terminates the license.

f) Records of radiation surveys required by Section 346.570 of this Part, for 5 years from the date of the survey.

g) Records of radiation survey meter calibrations required by Section 346.570 of this Part and pool water conductivity meter calibrations required by Section 346.630(b) of this Part, until 5 years from the date of each test.

h) Records of the results of leak tests required by Section 346.590(a) of this Part and the results of contamination checks required by Section 346.590(b) of this Part, for 5 years from the date of each test.

i) Records of inspection and maintenance checks required by Section 346.610 of this Part, for 5 years.

j) Records of major malfunctions, significant defects, operating difficulties or irregularities and major operating problems that involve required radiation safety equipment, for 5 years after repairs are completed.

k) Records of the receipt, transfer and disposal of all licensed sealed sources as required by 32 Ill. Adm. Code 310.40.
l) Records on the design checks required by Section 346.390 of this Part and the construction control checks as required by Section 346.410 of this Part, until the license is terminated. The records shall be signed and dated. The title or qualifications of the personnel signing the record shall be included.


Section 346.830 Reports

a) In addition to the reporting requirements in other Parts of Agency regulations, the licensee shall report the following events if not already reported:

1) Source stuck in an unshielded position.

2) Any fire or explosion in a radiation room.

3) Damage to the source racks.

4) Failure of cable or drive mechanism used to move the source racks.

5) Inoperability of the access control system.

6) Detection of radiation source by the product exit monitor.

7) Detection of radioactive contamination attributable to licensed radioactive material.

8) Structural damage to the pool liner or walls.

9) Abnormal water loss or leakage from the source storage pool.

10) Pool water conductivity exceeding 100 microsiemens per centimeter.

b) The report shall include a telephone report within 24 hours as described in 32 Ill. Adm. Code 340.1220 and a written report within 30 days as described in 32 Ill. Adm. Code 340.1230.
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Quality Standards and Certification Requirements for Facilities Performing Mammography

2) **Code Citation:** 32 Ill. Adm. Code 370

3) **Section Numbers:**

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4) **Statutory Authority:** Implementing and authorized by Section 40/9 of the Radiation Protection Act of 1990 [420 ILCS 40]

5) **Effective date of amendments:** December 16, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file at the Agency's headquarters located at 1035 Outer Park Drive, Springfield, Illinois and is available for public inspection.

9) **Notice of Proposal published in the Illinois Register:** July 1, 2005; 29 Ill. Reg. 9176

10) **Has JCAR issued a Statement of Objection to these amendments?** No
ILLINOIS REGISTER

05

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

11) Differences between proposal and final version: In Section 370.80, struck the comma after "Components" and added a comma after the quotation mark.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of amendments: This rulemaking establishes criteria for licensing, design and performance, operations and recordkeeping for irradiators in the State of Illinois. This Part adopts U.S. Nuclear Regulatory Commission (NRC) language for compliance with Agreement State Status

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

Kevin McClain
Chief Legal Counsel
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, Illinois 62704

217/785-9880 (voice)
217/782-6133 (TDD)

The full text of the Adopted Amendments begins on the next page:
ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 370
QUALITY STANDARDS AND CERTIFICATION REQUIREMENTS
FOR FACILITIES PERFORMING MAMMOGRAPHY

Section
370.10 Scope
370.20 Definitions
370.30 Incorporations by Reference
370.40 Exemptions
370.50 Requirements for Certification
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370.80 Equipment Requirements
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Another Certifying Entity
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Entity to Meet Requirements
370.170 Mammography Units Used for Localization or Biopsy Procedures
370.APPENDIX A Mammography Dose Measurement Protocol
370.APPENDIX B Mammography Phantom Image Evaluation
370.TABLE A Mammography Dose Evaluation Table

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Old Part repealed at 15 Ill. Reg. 10846, effective July 15, 1991; new Part adopted by
emergency rule at 22 Ill. Reg. 14972, effective August 3, 1998, for a maximum of 150 days;
adopted at 22 Ill. Reg. 21915, effective December 3, 1998; amended at 24 Ill. Reg. 18258,
NOTICE OF ADOPTED AMENDMENTS

Section 370.20 Definitions

As used in this Part, the following definitions apply:

"Accreditation body" or "body" means an entity that has been approved by FDA to accredit mammography facilities.

"Action limits" or "action levels" means the minimum and maximum values of a quality assurance measurement that can be interpreted as representing acceptable performance with respect to the parameter being tested. Values less than the minimum or greater than the maximum action limit or level indicate that corrective action shall be taken by the facility. Action limits or levels are also sometimes called control limits or levels.

"Adverse event" means an undesirable experience associated with mammography activities that include but are not limited to:

Poor image quality;

Failure to send mammography reports within 30 days to the referring physician or in a timely manner to the self-referred patient; and

Use of personnel that do not meet the requirements of Section 370.70 of this Part.


"Air kerma" means kerma in a given mass of air. The unit used to measure the quantity of air kerma is the Gray (Gy). For x-rays with energies less than 300 kiloelectronvolts (keV), 1 Gy = 100 rad.

"Breast implant" means a prosthetic device implanted in the breast.

"Calendar quarter" means any one of the following time periods during a given year: January 1 through March 31, April 1 through June 30, July 1 through September 30 or October 1 through December 31.
"Category I" means medical educational activities that have been designated as Category I by the Accreditation Council for Continuing Medical Education (ACCME), the American Osteopathic Association (AOA), a state medical society or an equivalent organization.

"Certificate" means the certificate described in Section 370.50 of this Part.

"Certification" means the process of approval of a facility by the Department to provide mammography services.

"Clinical image" means a mammogram.

"Consumer" means an individual who chooses to comment or complain in reference to a mammography examination, including the patient or representative of the patient (e.g., family member or referring physician).

"Continuing education unit" or "continuing education credit" means one contact hour of training.

"Contact hour" means an hour of training received through direct instruction.

"Department" means the Department of Nuclear Safety.

"Diagnostic mammography" means mammography performed on a patient with:

- clinical signs, symptoms or physical findings suggestive of breast cancer;
- an abnormal or questionable screening mammogram;
- a history of breast cancer with breast conservation surgery regardless of absence of clinical breast signs, symptoms or physical findings; or
- augmented breasts regardless of absence of clinical breast signs, symptoms or physical findings.

AGENCY NOTE: Diagnostic mammography is also called problem-solving mammography or consultative mammography. This definition excludes mammography performed during invasive interventions for localization or biopsy procedures.
"Direct instruction" means:

Face-to-face interaction between instructor(s) and student(s), as when the instructor provides a lecture, conducts demonstrations or reviews student performance; or

The administration and correction of student examinations by an instructor(s) with subsequent feedback to the student(s).

"Direct supervision" means that:

During joint interpretation of mammograms, the supervising interpreting physician reviews, discusses, and confirms the diagnosis of the physician being supervised and signs the resulting report before it is entered into the patient's records; or

During the performance of a mammography examination or survey of the facility's equipment and quality assurance program, the supervisor is present to observe and correct, as needed, the performance of the individual being supervised who is performing the examination or conducting the survey.

"Director" means the Director of the Illinois Emergency Management Agency Department of Nuclear Safety.

"Established operating level" means the value of a particular quality assurance parameter that has been established as an acceptable normal level by the facility's quality assurance program.

"Facility" or "mammography installation" means a hospital, outpatient department, clinic, radiology practice, mobile unit, office of a physician or other facility that conducts mammography activities, including operation of equipment to produce a mammogram, processing of the mammogram, initial interpretation of the mammogram and maintaining viewing conditions for that interpretation.

"First allowable time" means the earliest time a resident physician is eligible to take the diagnostic radiology boards from an FDA-designated certifying body.

"FDA" means the U.S. Food and Drug Administration.
"Interim regulations" means the regulations entitled "Requirements for Accrediting Bodies of Mammography Facilities" (58 FR 67558-67565) and "Quality Standards and Certification Requirements for Mammography Facilities" (58 FR 67565-67572), published by FDA on December 21, 1993, and amended on September 30, 1994 (59 FR 49808-49813). These regulations established the standards that had to be met by mammography facilities in order to lawfully operate between October 1, 1994 and April 28, 1999.

"Interpreting physician" means a licensed physician who interprets mammograms and who meets the requirements of Section 370.70(a) of this Part.

"Lead interpreting physician" means the interpreting physician assigned the general responsibility for ensuring that a facility's quality assurance program meets all of the requirements of Sections 370.100, 370.110, 370.120(b) and (c) and 370.130 of this Part. The administrative title and other supervisory responsibilities of the individual, if any, are left to the discretion of the facility.

"Mammogram" means radiographic image produced through mammography.

"Mammographic modality" means a technology for radiography of the breast. Examples are screen-film mammography and digital mammography.

"Mammography" means radiography of the breast.

"Mammography equipment evaluation" means an onsite assessment of mammography unit or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable standards in this Part.

"Mammography medical outcomes audit" means a systematic collection of mammography results and the comparison of those results with outcomes data.

"Mammography unit" or "units" means an assemblage of components for the production of x-rays for use during mammography, including, at a minimum, an x-ray generator, an x-ray control, a tube housing assembly, a beam limiting device and the supporting structures for these components.

"Mean optical density" means the average of the optical densities (OD) measured using phantom thicknesses of 2, 4 and 6 centimeters with values of kilovolt peak
(kVp) clinically appropriate for those thicknesses.

"Medical physicist" means a person trained in evaluating the performance of mammography equipment and facility quality assurance programs and who meets the qualifications set forth in Section 370.70(c) of this Part.


"Multi-reading" means two or more physicians, at least one of whom is an interpreting physician, interpreting the same mammogram.

"Patient" means any individual who undergoes a mammography evaluation in a facility.

"Phantom" means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. It is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue) and shall contain the following objects:

Spherical masses, composed of phenolic plastic, with thicknesses of: 2.00, 1.00, 0.75, 0.50 and 0.25 millimeter;

Specks, composed of aluminum oxide, with diameters of: 0.54, 0.40, 0.32, 0.24 and 0.16 millimeter;

Fibers, composed of nylon, with thicknesses of: 1.56, 1.12, 0.89, 0.75, 0.54 and 0.40 millimeter.

AGENCY NOTE: The Mammographic Accreditation Phantom Model 156, manufactured by Radiation Measurements, Inc., meets the above criteria and was chosen for use by the American College of Radiology's Mammography Accreditation Program.

"Phantom image" means a radiographic image of a phantom.

"Physical science" means physics, chemistry, radiation science (including medical physics and health physics) and engineering.
"Positive mammogram" means a mammogram that has an overall assessment of findings that are either "suspicious" or "highly suggestive of malignancy."

"Provisional certificate" means the provisional certificate described in Section 370.50(b) of this Part.

"Qualified instructor" means an individual whose training and experience adequately prepares him or her to carry out specified training assignments. Interpreting physicians, radiologic technologists or medical physicists who meet the requirements of Section 370.70 of this Part would be considered qualified instructors in their respective areas of mammography. Other examples of individuals who may be qualified instructors for the purpose of providing training to meet the requirements of this Part include, but are not limited to, instructors in a post-high school training institution and manufacturer's representatives.

"Quality control technologist" means an individual meeting the requirements of Section 370.100(a)(4) of this Part who is responsible for those quality assurance responsibilities not assigned to the lead interpreting physician or to the medical physicist.

"Radiologic technologist" means an individual specifically trained in the use of radiographic equipment and the positioning of patients for radiographic examinations and when performing mammography without direct supervision, also meets the requirements set forth in Section 370.70(b) of this Part.

"Screening mammography" means mammography performed on an asymptomatic patient to detect the presence of breast cancer at an early stage.

"Serious adverse event" means an adverse advent that may significantly compromise clinical outcomes, or an adverse event for which a facility fails to take appropriate corrective action in a timely manner.

"Serious complaint" means a report of a serious adverse event.

"Standard breast" means a 4.2 centimeter (cm) thick compressed breast consisting of 50 percent glandular and 50 percent adipose tissue.

"Survey" means an onsite physics consultation and evaluation of a facility quality assurance program performed by a medical physicist.
"Time cycle" means the film development time.

"Traceable to a national standard" means an instrument is calibrated at either the National Institute of Standards and Technology (NIST) or at a calibration laboratory that participates in a proficiency program with NIST at least once every 2 years and the results of the proficiency test conducted within 24 months of calibration show agreement within plus or minus 3 percent of the national standard in the mammography energy range.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.30 Incorporations by Reference

All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection and copying at the Illinois Emergency Management Agency Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.40 Exemptions

a) Mammography units used only during invasive interventions for localization or biopsy procedures are exempt from the requirements of this Part, except that such systems shall satisfy the criteria specified in Section 370.170 of this Part.

b) Each mobile mammography facility based outside of Illinois that operates in Illinois and that has not been certified by the Agency Department is exempt from the requirements of Sections 370.50 and 370.60 of this Part, provided that:

1) The mobile mammography facility is certified to perform mammography by FDA or other FDA-approved certifying agency at all times while conducting operations in Illinois; and

2) The mobile mammography facility meets the requirements of Section 370.145 of this Part.

AGENCY NOTE: Mobile mammography facilities exempt under this subsection
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(b) shall meet the standards of this Part except those Sections specifically exempted.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.50 Requirements for Certification

a) Except as otherwise provided in subsection (b)(1)(C) of this Section and Section 370.40 of this Part, a certificate issued by the Agency is required for lawful operation of all mammography facilities subject to the provisions of this Part. Facilities performing mammography shall meet the requirements of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part and be accredited by an FDA-approved accreditation body.

AGENCY NOTE: Currently, the only FDA-approved accrediting body in Illinois is the American College of Radiology.

AGENCY NOTE: Except for provisional certificates and interim notices, the term of certificates issued under this Section shall be for 3 years.

b) Application.

1) Certificates.

A) In order to qualify for a certificate, a facility shall apply to an accreditation body.

B) Following the Agency's receipt of the accreditation body's decision to accredit a facility, the Agency may issue a certificate to the facility, or renew an existing certificate, if the Agency determines that the facility has satisfied the requirements for certification or recertification.

C) The Agency may issue an interim notice of mammography certification by facsimile to a facility if a delay is anticipated in providing a certificate to the facility under one or more of the following circumstances:

   i) The Agency has been notified by an accreditation body that the facility meets the requirements
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for a provisional or provisional reinstatement certificate and delivery of the certificate may take more than 24 hours;

ii) The AgencyDepartment has been notified by an accreditation body that the facility has completed accreditation or reaccreditation and delivery of the certificate to the facility may take more than 24 hours; or

iii) The AgencyDepartment has been notified by an accreditation body that the facility has timely submitted an application for accreditation or reaccreditation but the completion of the accreditation process may extend beyond the expiration date of a facility's existing certificate through no fault of the facility.

An interim notice shall authorize the facility to perform mammography until the facility receives its certificate but in no case for more than 45 days. No more than one interim notice may be issued to a facility per application for certification.

2) Provisional certificates. A new facility is eligible to apply for a provisional certificate. The provisional certificate will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process.

A) To receive a provisional certificate, a facility shall apply and submit the required information to an FDA-approved accreditation body.

B) Following the Agency'sDepartment's receipt of the accreditation body's decision that a facility has submitted the required information, the AgencyDepartment may issue a provisional certificate to a facility upon determination that the facility has satisfied the requirements for provisional certification. A provisional certificate shall be effective for up to 6 months from the date of issuance. A provisional certificate cannot be renewed, but a facility may apply for a 90 day extension of the provisional certificate.

C) In the event the facility is denied accreditation by the accrediting
body with time remaining on the provisional certificate, the provisional certificate expires immediately with the denial and the facility must stop performing mammography.

3) Extension of provisional certificate.

A) To apply for a 90 day extension to a provisional certificate, a facility shall submit to its accreditation body a statement of what the facility is doing to obtain certification and evidence that there would be a significant adverse impact on access to mammography in the geographic area served if such facility did not obtain an extension.

B) Following the Agency's Department's receipt of the accreditation body's decision that a facility has submitted the required information, the AgencyDepartment may issue a 90 day extension of the provisional certificate to the facility upon determination that the facility has satisfied the requirements for the 90 day extension.

C) There can be no renewal of a provisional certificate beyond the 90-day extension.

c) Reinstatement policy. A previously certified facility that has allowed its certificate to expire, that has been refused a renewal of its certificate by FDA or the AgencyDepartment, or that has had its certificate suspended or revoked by FDA or the AgencyDepartment, may apply for reinstatement. If reinstated, the facility will be eligible for a provisional certificate.

1) Unless prohibited from reinstatement under subsection (c)(4) of this Section, a facility applying for reinstatement shall:

A) Contact an FDA-approved accreditation body to determine the requirements for reapplication for accreditation;

B) Fully document its history as a previously provisionally certified or certified mammography facility, including the following information:

i) Name and address of the facility under which it was previously provisionally certified or certified;
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ii) Name of previous owner/lessor;

iii) Facility identification number assigned to the facility under its previous certification; and

iv) Expiration date of the most recent provisional certificate or certificate; and

C) Justify application for reinstatement of accreditation by submitting to the accreditation body a corrective action plan that details how the facility has corrected deficiencies that contributed to the lapse, denial of renewal or revocation of its certificate.

2) The Agency Department may issue a provisional certificate to a previously certified facility:

A) Following the Agency Department's receipt of the accreditation body's decision that a facility has adequately corrected, or is in the process of correcting, pertinent deficiencies at the facility; and

B) The Agency Department determines that the facility has taken sufficient corrective action since the lapse, denial of renewal or revocation of its previous certificate.

3) After receiving the provisional certificate, the facility may lawfully resume performing mammography services while completing the requirements for certification.

4) If a facility's certificate was revoked on the basis of an act described in Section 370.160 of this Part, no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years after the date of revocation.

d) Appeals of adverse accreditation or reaccreditation decisions. The appeals procedures described in this subsection (d) are available only for adverse accreditation or reaccreditation decisions that preclude certification or recertification by the Agency Department.

1) Upon learning that a facility has failed to become accredited or
reaccredited, the Agency will notify the facility that the Agency is unable to certify that facility without proof of accreditation.

2) A facility that has been denied accreditation or reaccreditation is entitled to an appeals process from the accreditation body. A facility shall avail itself of the accreditation body's appeal process before appealing that decision to the FDA.

3) In the event that a facility, after availing itself of the accreditation body's appeal process, receives an adverse accreditation or reaccreditation decision, the facility may appeal that decision to the FDA. In order to appeal, the facility shall send a request for reconsideration to the FDA within 60 days after the accrediting body's adverse appeal decision within 30 days after such adverse decision submit a request for review of the adverse accreditation or reaccreditation decision to the Department.

4) Within 30 days following receipt of such written request, the Department shall issue a Preliminary Order and Notice of Opportunity for Hearing to the facility in accordance with 32 Ill. Adm. Code 200 stating the basis for the denial of certification or recertification.

5) Upon issuance of the Preliminary Order and Notice of Opportunity for Hearing, such provisions of 32 Ill. Adm. Code 200 shall apply as may be applicable.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.70 Personnel Requirements

Personnel. The following requirements apply to all personnel involved in any aspect of mammography, including the production, processing, and interpretation of mammograms and related quality assurance activities:

a) Interpreting physicians. All physicians interpreting mammograms shall meet the following qualifications:

1) Initial qualifications. Unless the exemption in subsection (a)(3) of this Section applies, before beginning to interpret mammograms independently, the interpreting physician shall:
A) Be a physician licensed under the Medical Practice Act of 1987 to practice medicine in all its branches [225 ILCS 60];

B) Be certified in diagnostic radiology by either the American Board of Radiology, the American Osteopathic Board of Radiology, or Royal College of Physicians and Surgeons of Canada or have had at least 3 months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects and radiation protection. The mammographic interpretation component shall be under the direct supervision of a physician who meets the requirements of subsection (a) of this Section;

C) Have a minimum of 60 hours of documented medical education in mammography, which shall include instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, physiology, technical aspects of mammography and quality assurance and quality control in mammography. All 60 of these hours shall be Category I and at least 15 of the Category I hours shall have been acquired within the 3 years immediately prior to the date that the physician qualifies as an interpreting physician. Hours spent in residency specifically devoted to mammography will be considered as equivalent to Category I continuing medical education credits and will be accepted if documented in writing by the appropriate representative of the training institution; and

D) Unless the exemption in subsection (a)(3) of this Section applies, have interpreted or multi-read at least 240 mammographic examinations within the 6 month period immediately prior to the date that the physician qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician.

2) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:
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A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have interpreted or multi-read at least 960 mammographic examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (a)(1) of this Section were completed, the interpreting physician shall have taught or completed at least 15 Category I continuing medical education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period. This training shall include at least 6 Category I continuing medical education credits in each mammographic modality used by the interpreting physician in his or her practice.

C) Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality, that is, a mammographic modality in which the physician has not previously been trained, the interpreting physician shall have at least 8 hours of training in the new mammographic modality.

D) Units earned through teaching a specific course can be counted only once towards the 15 units required by subsection (a)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

3) Exemptions.

A) Those physicians who qualified as interpreting physicians under FDA's interim regulations prior to April 28, 1999, are considered to have met the initial requirements of subsection (a)(1) of this
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Section. These physicians may continue to interpret mammograms provided they continue to meet the requirements of subsection (a)(1) of this Section and the continuing experience and education requirements of subsection (a)(2) of this Section.

B) Physicians who have interpreted or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician in any 6 month period during the last 2 years of a diagnostic radiology residency and who become appropriately board certified at the first allowable time, as defined by an eligible certifying body, are otherwise exempt from subsection (a)(1)(D) of this Section.

4) Reestablishing qualifications. Interpreting physicians who fail to maintain the required continuing experience or continuing education requirements of subsection (a)(2) of this Section, shall reestablish their qualifications before resuming the independent interpretation of mammograms as follows:

A) Interpret or multi-read at least 240 mammographic examinations under the direct supervision of an interpreting physician, or interpret or multi-read a sufficient number of mammographic examinations, under the direct supervision of an interpreting physician, to bring the physician's total up to 960 examinations for the prior 24 months, whichever is less.

B) Interpreting physicians who fail to meet the continuing education requirements of subsection (a)(2)(B) of this Section shall obtain a sufficient number of additional Category I continuing medical education credits in mammography to bring their total up to the required 15 credits in the previous 36 months before resuming independent interpretation.

C) The interpretations required under this Section shall be done within the 6 months immediately prior to resuming independent interpretation.

b) Radiologic technologists who perform mammographic examinations shall be accredited by the Agency Department and shall meet the following:
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1) Training requirements.

A) Have, prior to April 28, 1999, qualified as a radiologic technologist under FDA's interim regulations; or

B) Complete at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not necessarily be limited to:

i) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques and imaging of patients with breast implants;

ii) The performance of a minimum of 25 examinations under the direct supervision of an individual qualified under subsection (b) of this Section; and

iii) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams.

2) Continuing education requirements.

A) Following the third anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed, the radiologic technologist who performs mammography shall have taught or completed at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 36 month period.

B) Units earned through teaching a specific course can be counted only once towards the 15 hours of continuing education requirements required in subsection (b)(2) of this Section, even if the course is taught multiple times during the previous 36 months.

C) At least 6 of the continuing education units required in subsection
(b)(2) of this Section shall be related to each mammographic modality used by the technologist.

D) Requalification. Radiologic technologists who fail to meet the continuing education requirements of subsection (b)(2)(A) of this Section shall obtain a sufficient number of continuing education units in mammography to bring their total up to at least 15 in the previous 3 years, at least 6 of which shall be related to each modality used by the technologist in mammography. The technologist shall not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

E) Before a radiologic technologist may begin independently performing mammography examinations using a mammographic modality other than one of those for which the technologist received training under subsection (b)(1)(B)(iii) of this Section, the technologist shall have at least 8 hours of continuing education units in the new modality.

3) Continuing experience requirements.

A) Following the second anniversary date of the end of the calendar quarter in which the requirements of subsection (b)(1) of this Section were completed or of April 28, 1999, whichever is later, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility will choose one of these dates to determine the 24 month period.

B) Requalification. Radiologic technologists who fail to meet the continuing experience requirements of subsection (b)(3)(A) of this Section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist before resuming the performance of unsupervised mammography.

C) Programs, courses or other activities intended to meet the
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requirement for initial, or requalification, mammography training or continuing education in mammography shall be approved by the Agency Department.

D) Completion of initial, or requalification, mammography training and continuing education in mammography shall be verified to the Agency Department.

c) Medical physicists. All medical physicists conducting surveys of mammography facilities and providing oversight of the facility quality assurance program shall be approved by the Agency Department as diagnostic imaging specialists pursuant to 32 Ill. Adm. Code 410, and meet the following:

1) Initial qualifications.
   
   A) Be certified in diagnostic radiological physics or radiological physics by either the American Board of Radiology (ABR) or the American Board of Medical Physics (ABMP);

   B) Have a masters degree or higher in a physical science from an accredited institution, with no less than 20 semester hours or equivalent (e.g., 30 quarter hours) of college undergraduate or graduate level physics;

   C) Have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

   D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 10 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. After April 28, 1999, experience conducting surveys shall be acquired under the direct supervision of a medical physicist who meets all the requirements of subsections (c)(1), (c)(2) and (c)(3) of this Section.

2) Alternative initial qualifications.
   
   A) Have qualified as a medical physicist under FDA's interim regulations and retained that qualification by maintenance of the
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active status of any licensure, approval or certification required;

B) Have, prior to April 28, 1999, obtained a bachelor's degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics;

C) Have 40 contact hours of documented specialized training in conducting surveys of mammography facilities; and

D) Have the experience of conducting surveys of at least 1 mammography facility and a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements shall be met after fulfilling the degree requirement.

3) Continuing education and experience. All medical physicists shall maintain their qualifications by meeting the following requirements:

A) Continuing education. Beginning 3 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed, the medical physicist shall have taught, or completed, at least 15 continuing education units in mammography during the 36 months immediately preceding the date of the facility's annual inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 36 month period. This continuing education shall include hours of training appropriate to each mammographic modality evaluated by the medical physicist during his or her surveys or oversight of quality assurance programs. Units earned through teaching a specific course can be counted only once towards the required 15 continuing education units in a 36 month period, even if the course is taught multiple times during the 36 months.

B) Continuing experience. Beginning 2 years after the end of the calendar quarter in which the requirements of subsection (c)(1) or (c)(2) of this Section were completed or of April 28, 1999, whichever is later, the medical physicist shall have surveyed at
least 2 mammography facilities and a total of at least 6 mammography units during the 24 months immediately preceding the date of the facility's annual MQSA inspection, or the last day of the calendar quarter preceding the inspection or any date in between the two. The facility shall choose one of these dates to determine the 24 month period. No more than one survey of a specific facility within a 10 month period or a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

C) Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one for which the physicist received training to qualify under subsection (c)(1) or (c)(2) of this Section, the physicist shall receive at least 8 hours of training in surveying units of the new mammographic modality.

4) Reestablishing qualifications. Medical physicists who fail to maintain the required continuing education and experience qualifications of subsection (c)(3) of this Section may not perform the MQSA surveys without the supervision of a qualified medical physicist. Before independently surveying another facility, medical physicists shall reestablish their qualifications, as follows:

A) Medical physicists who fail to meet the continuing educational requirements of subsection (c)(3)(A) of this Section shall obtain a sufficient number of continuing education units to bring their total units up to the required 15 units in the previous 3 years.

B) Medical physicists who fail to meet the continuing experience requirement of subsection (c)(3)(B) of this Section shall complete a sufficient number of surveys under the direct supervision of a medical physicist who meets the qualifications of subsection (c)(1) or (c)(2) of this Section, to bring their total surveys up to the required 2 facilities and 6 units in the previous 24 months. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement.

d) Retention of personnel records. Facilities shall maintain records to document the
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qualifications of all personnel who worked at the facility as interpreting physicians, radiologic technologists or medical physicists. These records shall be available for review by the Agency Department. Records of personnel no longer employed by the facility shall not be discarded until the next annual inspection has been completed and the Agency Department has determined that the facility is in compliance with the personnel requirements of this Section.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.80 Equipment Requirements

The equipment requirements of this Section are intended to ensure that mammography equipment is capable of producing quality mammograms over the full range of clinical conditions.

a) Prohibited equipment. Radiographic equipment designed for general purpose shall not be used for mammography. Mammography shall only be performed with a special purpose radiation machine specifically designed for and used solely for mammography procedures.

b) General. All radiographic equipment used for mammography shall be certified under the "Performance Standards for Diagnostic X-Ray Systems and their Major Components," published at 21 CFR 1020.30, effective as of April 1, 1997.

c) Motion of tube-image receptor assembly.

1) The assembly shall be capable of being fixed in any position where it is designed to operate. Once fixed in any such position, it shall not undergo unintended motion.

2) The mechanism ensuring compliance with subsection (c)(1) of this Section shall not fail in the event of power interruption.

d) Image receptor sizes.

1) Systems using screen-film image receptors shall provide, at a minimum, for operation with image receptors of 18 x 24 centimeters (cm) and 24 x 30 cm.

2) Systems using screen-film image receptors shall be equipped with moving
grids matched to all image receptor sizes provided.

3) Systems used for magnification procedures shall be capable of operation with the grid removed from between the source and image receptor.

e) Beam limitation and light fields.

1) All systems shall have beam-limiting devices.

2) For any mammography system with a light beam that passes through the x-ray beam-limiting device, the light shall provide an average illumination of not less than 160 lux (15 foot candles) at 100 cm or the maximum source-image receptor distance (SID), whichever is less.

f) Magnification.

1) Systems used to perform noninterventional problem solving procedures shall have radiographic magnification capability available for use by the operator.

2) Systems used for magnification procedures shall provide, at a minimum, at least one magnification value within the range of 1.4 to 2.0.

g) Focal spot selection.

1) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

2) When more than one target material is provided, the system shall indicate, prior to exposure, the preselected target material.

3) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after the exposure, the target material and/or focal spot actually used during the exposure.

h) Compression. All mammography systems shall incorporate a compression device.

1) Application of compression. Each Effective October 28, 2002, each
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system shall provide:

A) An initial power-driven compression activated by hands-free controls operable from both sides of the patient; and

B) Fine adjustment compression controls operable from both sides of the patient.

2) Compression paddle.

A) Systems shall be equipped with different sized compression paddles that match the sizes of all full-field image receptors provided for the system. Compression paddles for special purposes, including those smaller than the full size of the image receptor (for "spot compression") may be provided. Such compression paddles for special purposes are not subject to the requirements of subsections (h)(2)(D) and (h)(2)(E) of this Section.

B) Except as provided in subsection (h)(2)(C) of this Section, the compression paddle shall be flat and parallel to the breast support table and shall not deflect from parallel by more than 1.0 cm at any point on the surface of the compression paddle when compression is applied.

C) Equipment intended by the manufacturer's design to not be flat and parallel to the breast support table during compression shall meet the manufacturer's design specifications and maintenance requirements.

D) The chest wall edge of the compression paddle shall be straight and parallel to the edge of the image receptor.

E) The chest wall edge may be bent upward to allow for patient comfort but shall not appear on the image.

i) Technique factor selection and display.

1) Manual selection of milliampere seconds (mAs) or at least one of its component parts (milliampere (mA) and/or time) shall be available.
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2) The technique factors (peak tube potential in kilovolt (kV) and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs) to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls (AEC) are used, in which case the technique factors that are set prior to the exposure shall be indicated.

3) Following AEC mode use, the system shall indicate the actual kilovoltage peak (kVp) and mAs used during the exposure. The mAs may be displayed as mA and time.

j) Automatic exposure control.

1) Each screen-film system shall provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, nongrid, magnification, nonmagnification and various target-filter combinations.

2) The positioning or selection of the detector shall permit flexibility in the placement of the detector under the target tissue.

A) The size and available positions of the detector shall be clearly indicated at the x-ray input surface of the breast compression paddle.

B) The selected position of the detector shall be clearly indicated.

3) The system shall provide means for the operator to vary the selected optical density from the normal (zero) setting.

k) X-ray film. The facility shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

l) Intensifying screens. The facility shall use intensifying screens for mammography that have been designated by the screen manufacturer as appropriate for mammography and shall use film that is matched to the screen's spectral output as specified by the manufacturer.

m) Film processing solutions. For processing mammography films, the facility shall use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film
n) Lighting. The facility shall make special lights for film illumination, i.e., hot-lights, capable of producing light levels greater than that provided by the view box, available to the interpreting physicians.

o) Film masking devices. Facilities shall ensure that film masking devices that can limit the illuminated area to a region equal to or smaller than the exposed portion of the film are available to all interpreting physicians interpreting for the facility.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.100 Quality Assurance Requirements

Each facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity and accuracy of mammography services performed at the facility.

a) Responsible individuals. Responsibility for the quality assurance program and for each of its elements shall be assigned to individuals who are qualified for their assignments and who shall be allowed adequate time to perform these duties.

1) Lead interpreting physician. The facility shall identify a lead interpreting physician who shall have the general responsibility of ensuring that the quality assurance program meets all requirements of this Section and Sections 370.110, 370.120(b) and (c) and 370.130 of this Part. No other individual shall be assigned or shall retain responsibility for quality assurance tasks unless the lead interpreting physician has determined that the individual's qualifications for, and performance of, the assignment are adequate.

2) Interpreting physicians. All interpreting physicians interpreting mammograms for the facility shall:

A) Follow the facility procedures for corrective action when the images they are asked to interpret are of poor quality; and

B) Participate in the facility's medical outcomes audit program.

3) Medical physicist. Each facility shall have the services of a medical physicist available to survey mammography equipment and oversee the
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equipment-related quality assurance practices of the facility. At a minimum, the medical physicist(s) shall be responsible for performing the surveys and mammography equipment evaluations and providing the facility with the reports described in Section 370.110(i) of this Part.

4) Quality control technologist. Responsibility for all individual tasks within the quality assurance program not assigned to the lead interpreting physician or the medical physicist shall be assigned to a quality control technologist(s). The tasks are to be performed by the quality control technologist or by other personnel qualified to perform the tasks. When other personnel are utilized for these tasks, the quality control technologist shall ensure that the tasks are completed in such a way as to meet the requirements of Section 370.110 of this Part.

b) Personnel quality assurance records. The lead interpreting physician, quality control technologist and medical physicist shall ensure that records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, quality control (including monitoring data, problems detected by analysis of that data, corrective actions and the effectiveness of the corrective actions), safety, and protection are properly maintained and updated. These quality control records shall be kept for each test specified in Section 370.110 of this Part until the next annual inspection has been completed and the Agency has determined that the facility is in compliance with the quality assurance requirements or until the test has been performed two additional times at the required frequency, whichever is longer.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.110 Equipment Quality Assurance Tests

a) Daily quality control tests. Film processors used to develop mammograms shall be adjusted and maintained to meet the technical development specifications for the mammography film in use. A processor performance test shall be performed on each day that examinations are performed before any clinical films are processed that day. The test shall include an assessment of base plus fog density, mid-density and density difference, using the mammography film used clinically at the facility.

1) The base plus fog density shall be within plus 0.03 of the established...
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operating level.

2) The mid-density shall be within plus or minus 0.15 of the established operating level.

3) The density difference shall be within plus or minus 0.15 of the established operating level.

b) Weekly quality control tests. Facilities with screen-film systems shall perform a phantom image quality evaluation test at least weekly, using the Mammography Image Evaluation Protocol found in Appendix B of this Part.

1) The optical density of the film at the center of an image of the phantom shall be at least 1.20 when exposed under a typical clinical condition.

2) The optical density of the film at the center of the phantom image shall not change by more than plus or minus 0.20 from the established operating level.

3) The mammography system shall be capable of producing images of the mammography phantom in which the following objects are visualized:

   A) The three largest masses with thicknesses of 2.0, 1.0 and 0.75 millimeter.

   B) The three largest speck groups with diameters of 0.54, 0.40 and 0.32 millimeter.

   C) The four largest fibers with thicknesses of 1.56, 1.12, 0.89 and 0.75 millimeter.

4) The density difference between the background of the phantom and an added test object, used to assess image contrast, shall be measured and shall not vary by more than plus or minus 0.05 from the established operating level.

c) Quarterly quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least quarterly:

1) Fixer retention in film. The residual fixer shall be no more than 5
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micrograms per square cm.

2) Repeat analysis. If the total repeat or reject rate changes from the previously determined rate by more than 2.0 percent of the total films included in the analysis, the reasons for the change shall be determined. Any corrective actions shall be recorded and the results of these corrective actions shall be assessed.

d) Semiannual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least semiannually:

1) Darkroom fog. The optical density attributable to darkroom fog shall not exceed 0.05 when a mammography film of the type used in the facility, which has a mid-density of no less than 1.20, is exposed to typical darkroom conditions for 2 minutes while such film is placed on the counter top emulsion side up. If the darkroom has a safelight used for mammography film, it shall be on during this test.

2) Screen-film contact. Testing for screen-film contact shall be conducted using 40 mesh copper screen. All cassettes used in the facility for mammography shall be tested.

3) Compression device performance. The compression device performance shall:

   A) Be capable of maintaining a compression force of at least 111 newtons (25 pounds) for at least 15 seconds;

   B) Not be capable of exceeding a compression force of more than 209 newtons (47 pounds) when used in an automatic or power drive mode.

e) Annual quality control tests. Facilities with screen-film systems shall perform the following quality control tests at least annually:

1) Automatic exposure control performance.

   A) The AEC shall be capable of maintaining film optical density within plus or minus 0.30 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to
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6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility. If this requirement cannot be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different breast thicknesses and compositions that shall be used so that optical densities within plus or minus 0.30 of the average under phototimed conditions can be produced.

B) The AEC shall be capable of maintaining film optical density within plus or minus 0.15 of the mean optical density when thickness of a homogeneous material is varied over a range of 2 to 6 cm and the kVp is varied appropriately for such thicknesses over the kVp range used clinically in the facility.

C) The optical density of the film in the center of the phantom image shall not be less than 1.20.

2) Kilovoltage peak accuracy and reproducibility. The kVp shall be accurate within plus or minus 5 percent of the indicated or selected kVp at:

A) The lowest clinical kVp that can be measured by a kVp test device;

B) The most commonly used clinical kVp;

C) The highest available clinical kVp; and

D) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

3) Focal spot dimensions. Facilities Until October 28, 2002, focal spot condition shall be evaluated by measuring focal spot dimensions or by determining system resolution. After October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution. For focal spot dimensions, the measured values of the focal spot length (dimension parallel to the anode cathode axis) and width (dimension perpendicular to the anode-cathode axis) shall be within the tolerance limits specified in this subsection (e)(3).
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Focal Spot Tolerance Limit

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<tr>
<th>Spot Size (mm)</th>
<th>Nominal Focal</th>
<th>Maximum Measured Dimensions</th>
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4) System resolution. Facilities after October 28, 2002, facilities shall evaluate focal spot condition only by determining the system resolution as follows:

A) Each x-ray system used for mammography, in combination with the mammography screen-film combination used in the facility, shall provide a minimum resolution of 11 cycles/millimeter (mm) (line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis.

B) The bar pattern shall be placed 4.5 cm above the breast support surface, centered with respect to the chest wall edge of the image receptor, and with the edge of the pattern within 1 cm of the chest wall edge of the image receptor.

C) When more than one target material is provided, the measurement shall be made using the appropriate focal spot for each target material.

D) When more than one source-image receptor distance is provided, the test shall be performed at SID most commonly used clinically.

E) Test kVp shall be set at the value used clinically by the facility for a standard breast and shall be performed in the AEC mode, if available. If necessary, a suitable absorber may be placed in the beam to increase exposure times. The screen-film cassette
5) Beam quality and half-value layer (HVL). For mammography systems operating at x-ray tube potentials of less than 50 kVp, the HVL in millimeters of aluminum of the useful beam shall be equal to or greater than the product of the measured tube potential in kilovolts multiplied by 0.01. The half-value layer shall be measured with the compression device in the beam and shall be measured at the same tube potential used in Appendix A of this Part, Mammography Dose Measurement Protocol, and Appendix B of this Part, Mammography Phantom Image Evaluation.

AGENCY NOTE: If the measured half-value layer is significantly greater than the specified minimum, image contrast will be reduced and overall image quality will be degraded. For screen-film mammography systems, it is recommended that the HVL not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum, as specified in the American College of Radiology; Mammography Quality Control for Medical Physicists, Revised Edition, 1994.

6) Breast entrance air kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

7) Dosimetry. The average glandular dose delivered during a single craniocaudal view of a phantom simulating a standard breast shall not exceed 3.0 milligray (mGy) (0.3 rad) per exposure. The dose shall be determined with technique factors and conditions used clinically for a standard breast (see Appendix A of this Part).

8) X-ray field/light field/image receptor/compression paddle alignment.

A) All systems shall have beam-limiting devices that allow the entire chest wall edge of the x-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the x-ray field does not extend beyond any edge of the image receptor by more than 2 percent of the SID.

B) If a light field that passes through the x-ray beam limitation device is provided, it shall be aligned with the x-ray field so that the total
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of any misalignment of the edges of the light field and the x-ray field along either the length or the width of the visually defined field at the plane of the breast support surface shall not exceed 2 percent of the SID.

C) The chest wall edge of the compression paddle shall not extend beyond the chest wall edge of the image receptor by more than one percent of the SID when tested with the compression paddle placed above the breast support surface at a distance equivalent to standard breast thickness. The shadow of the vertical edge of the compression paddle shall not be visible on the image.

9) Uniformity of screen speed. Uniformity of screen speed of all the cassettes in the facility shall be tested and the difference between the maximum and minimum optical densities shall not exceed 0.30. Screen artifacts shall also be evaluated during this test.

10) System artifacts. System artifacts shall be evaluated with a high-grade, defect-free sheet of homogeneous material large enough to cover the mammography cassette and shall be performed for all cassette sizes used in the facility using a grid appropriate for the cassette size being tested. System artifacts shall also be evaluated for all available focal spot sizes and target filter combinations used clinically.

11) Radiation output.

A) The system shall be capable of producing a minimum output of 4.5 mGy air kerma per second (513 mR per second) when operating at 28 kVp in the standard mammography (moly/moly) mode at any SID where the system is designed to operate and when measured by a detector with its center located 4.5 cm above the breast support surface with the compression paddle in place between the source and the detector. After October 28, 2002, the system, under the same measuring conditions, shall be capable of producing a minimum output of 7.0 mGy air kerma per second (800 mR per second) when operating at 28 kVp in the standard (moly/moly) mammography mode at any SID where the system is designed to operate.

B) The system shall be capable of maintaining the required minimum

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radiation output averaged over a 3.0 second period.

12) Decompression. If the system is equipped with a provision for automatic decompression after completion of an exposure or interruption of power to the system, the system shall be tested to confirm that it provides:

A) An override capability to allow maintenance of compression;

B) A continuous display of the override status; and

C) A manual emergency compression release that can be activated in the event of power or automatic release failure.

f) Quality control tests-other modalities. For systems with image receptor modalities other than screen-film, the quality assurance program shall be substantially the same as the quality assurance program recommended by the image receptor manufacturer, except that the maximum allowable dose shall not exceed the maximum allowable dose for screen-film systems in subsection (e)(7) of this Section.

g) Mobile units. The facility shall verify that mammography units used to produce mammograms at more than one location meet the requirements in subsections (a) through (f) of this Section. In addition, at each examination location, before any examinations are conducted, mobile mammography systems shall be tested using the mammography phantom image evaluation, or shall meet the following requirements:

1) A medical physicist shall establish a protocol for measurement of the radiation output of the mammography system, including the radiation measuring device to be used, procedures for performing the measurement and the anticipated result of the measurement.

2) Measurements shall be performed using the technique factors that were used for the most recent phantom image evaluation. If a change is made in the technique factors used for the measurements required in this subsection (g)(2), the image quality shall be tested using the mammography phantom image evaluation protocol found in Appendix B of this Part.

AGENCY NOTE: If the phantom image evaluation is performed using a
phototimer, the medical physicist may specify appropriate technique factors that approximate those used by the phototimer for the measurements required in this Section.

3) After each relocation of a mobile mammography system, measurements of the radiation output of the machine shall be performed according to the protocol established in this Section.

4) If the radiation output measurement exceeds plus or minus 15 percent of the value established by the medical physicist, the system shall not be used to image human patients until the cause for the variation has been investigated and corrected.

5) Records of radiation output measurements for mobile mammography systems shall be maintained at the location of the mammography system for a period of not less than one inspection cycle.

AGENCY NOTE: The Agency recommends that mobile mammography systems be tested for image quality after each relocation and prior to use on patients, with mammography phantom image evaluation protocol in Appendix B of this Part.

h) Use of test results.

1) After completion of the tests specified in subsections (a) through (g) of this Section, the facility shall compare the test results to the corresponding specified action limits, or for nonscreen-film modalities, to the manufacturer's recommended action limits, or for post-move, preexamination testing of mobile units, to the limits established in the test method used by the facility.

2) If the test results fall outside of the action limits, the source of the problem shall be identified and corrective actions shall be taken:

   A) Before any further examinations are performed or any films are processed using the component of the mammography system that failed the test, if the failed test was that described in subsection (a), (b), (d)(1), (d)(2), (d)(3), (e)(7), (f) or (g) of this Section;

   B) Within 30 days after the test date for all other tests described in
i) Surveys.

1) At least once a year, each facility shall undergo a survey by a medical physicist or by an individual under the direct supervision of a medical physicist. At a minimum, this survey shall include the performance of tests to ensure that the facility meets the quality assurance requirements of the annual tests described in subsections (e) and (f) of this Section and the weekly phantom image quality test described in subsection (b) of this Section.

2) Calibration of air kerma measuring instruments. Instruments used by medical physicists in their annual survey to measure the air kerma or air kerma rate from a mammography unit shall be calibrated at least once every 2 years and each time the instrument is repaired. The instrument calibration shall be traceable to a national standard and calibrated with an accuracy of plus or minus 6 percent (95 percent confidence level) in the mammography energy range.

3) The results of all tests conducted by the facility in accordance with subsections (a) through (g) of this Section, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey.

4) The medical physicist shall prepare a survey report that includes a summary of this review and recommendations for necessary improvements.

5) The survey report shall be sent to the facility within 30 days after the date of the survey.

6) The survey report shall be dated and signed by the medical physicist performing or supervising the survey. If the survey was performed entirely or in part by another individual under the direct supervision of the medical physicist, that individual and the part of the survey that individual performed shall also be identified in the survey report.

j) Mammography equipment evaluations. Additional evaluations of mammography units or image processors shall be conducted whenever a new unit or processor is
installed, a unit or processor is disassembled and reassembled at the same or a new location, or major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in this Section and Section 370.80 of this Part. All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of a medical physicist.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.130 Mammography Medical Outcomes Audit

Each facility shall establish and maintain a mammography medical outcomes audit program to follow up positive mammographic assessments and to correlate pathology results with the interpreting physician's findings. This program shall be designed to ensure the reliability, clarity and accuracy of the interpretation of mammograms.

a) General requirements. Each facility shall establish a system to collect and review outcome data for all mammograms performed, including followup on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians at the facility. In addition, any cases of breast cancer among patients imaged at the facility that subsequently become known to the facility shall prompt the facility to initiate followup on surgical and/or pathology results and review of the mammograms taken prior to the diagnosis of a malignancy.

b) Frequency of audit analysis. The facility's first audit analysis shall be initiated no later than 12 months after the date the facility becomes certified, or 12 months after April 28, 1999, whichever date is the latest. This audit analysis shall be completed within an additional 12 months to permit completion of diagnostic procedures and data collection. Subsequent audit analyses will be conducted at least once every 12 months.

c) Audit interpreting physician. Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit periods and shall be responsible for analyzing results based on this audit. This individual shall
also be responsible for documenting the results, notifying other interpreting physicians of their results and the facility aggregate results. If followup actions are taken, the audit interpreting physician shall also be responsible for documenting the nature of the followup.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.140 Additional Mammography Review and Patient Notification

a) If the Agency Department believes that mammography quality at a facility has been compromised and may present a serious risk to human health, the facility shall provide clinical images and other relevant information, as specified by the Agency Department, for review by the accreditation body. This additional mammography review will help the Agency Department to determine whether the facility is in compliance with this Part and, if not, whether there is a need to notify affected patients, their physicians or the public that the reliability, clarity and accuracy of interpretation of mammograms has been compromised.

b) If the Agency Department determines that the quality of mammography performed by a facility, whether or not certified under Section 370.50 of this Part, was so inconsistent with the quality standards established in this Part as to present a significant risk to individual or public health, the Agency Department may require the facility to notify patients who received mammograms at the facility, and their referring physicians, of the deficiencies presenting the risk, the potential harm resulting, appropriate remedial measures and other relevant information as the Agency Department may require.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.145 Notification Requirements for Mobile Mammography Facilities Certified by Another Certifying Entity

Mobile mammography facilities that operate in Illinois and are certified under MQSA by the FDA, or another state authorized by FDA to certify mammography facilities under MQSA, shall:

a) Notify the Agency Department by telephone, facsimile or letter of each date and location of operation of the mobile mammography facility in Illinois prior to conducting such operation.

AGENCY NOTE: Notifications submitted by the mobile mammography facility
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to the AgencyDepartment may contain notice of multiple dates and locations of operation by the mobile mammography facility.

b) At all times while operating in Illinois, have the following documentation available for review and inspection by the AgencyDepartment:

1) A copy of the mammography facility certificate issued by the FDA or another state, showing that the facility is currently certified.

2) A summary of the most recent physics survey of the mammography machine and documentation of any corrective actions recommended by the medical physicist who performed the physics survey.

3) Documentation that personnel meet the qualifications of Section 370.70 of this Part.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.150 Revocation of Accreditation and Revocation of Accreditation Body Approval

If a facility's accreditation is revoked by an accreditation body, the AgencyDepartment may conduct an investigation into the reasons for the revocation. Following such investigation, the AgencyDepartment may act to suspend or revoke the facility's certificate and may take whatever other action or combination of actions will best protect the public health, including requiring the establishment and implementation of a corrective plan of action that will permit the certificate to continue in effect while the facility seeks reaccreditation. A facility whose certificate is suspended or revoked because it has lost its accreditation may not practice mammography.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.160 Suspension, or Revocation or Denial of Certificates

a) The AgencyDepartment may suspend, or revoke or deny a certificate if the AgencyDepartment finds, after providing the owner or operator of the facility with notice and opportunity for hearing in accordance with 32 Ill. Adm. Code 200, that the owner, operator or any employee of the facility:

1) Has been guilty of misrepresentation in obtaining the certificate;
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2) Has failed to comply with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 and 370.130 of this Part;

3) Has failed to comply with reasonable requests of the Agency or the accreditation body for records, information, reports, or materials that the Agency believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120, 370.130 and 370.140 of this Part;

4) Has refused a reasonable request of a duly designated FDA inspector, Agency inspector, or accreditation body representative for permission to inspect the facility or the operations and pertinent records of the facility;

5) Has violated or aided and abetted in the violation of any provision of this Part;

6) Has failed to comply with prior sanctions imposed by the Agency; and

7) Has failed to pay any required fees.

b) If, based upon any of the grounds in subsection (a) of this Section, the Agency determines that action to suspend, revoke or deny certification is warranted, the Agency shall notify the owner or operator of a facility and shall provide an opportunity for hearing in accordance with 32 Ill. Adm. Code 200.

c) The Agency may suspend the certificate of a facility before holding a hearing if the Agency determines that:

1) The failure to comply with required standards presents a serious risk to human health;

2) The refusal to permit inspection makes immediate suspension necessary; or

3) There is reason to believe that the violation or aiding and abetting of the violation was intentional or associated with fraud.
de) If the Agency Department suspends a certificate in accordance with subsection (cb) of this Section:

1) The Agency Department shall provide the facility with an opportunity for a hearing under 32 Ill. Adm. Code 200 not later than 30 days after the effective date of the suspension;

2) The suspension shall remain in effect until the Agency Department determines that:
   A) Allegations of violations or misconduct were not substantiated;
   B) Violations of required standards have been corrected to the Agency's satisfaction; or
   C) The facility's certificate is revoked in accordance with subsection (ed) of this Section.

ed) After providing a hearing in accordance with subsection (de)(1) of this Section, the Agency Department may revoke the facility's certificate if the Agency Department determines that the facility:

1) Is unwilling or unable to correct violations that were the basis for suspension; or

2) Has engaged in fraudulent activity to obtain or continue certification.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.165 Failure of Mobile Mammography Facilities Certified by Another Certifying Entity to Meet Requirements

If the Agency Department has reason to believe that the owner, operator or any employee of a mobile mammography facility certified by another certifying entity:

a) has been guilty of misrepresentation in obtaining the certificate;

b) has failed to comply with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120 or 370.130 of this Part;
c) has failed to comply with reasonable requests of the Agency Department for records, information, reports, or materials that the Agency Department believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of Sections 370.70, 370.80, 370.90, 370.100, 370.110, 370.120, 370.130 or 370.140 of this Part; or

d) has refused a reasonable request of a Agency Department representative for permission to inspect the facility or the operations and pertinent records of the facility;

the Agency Department shall notify the certifying entity of the facts and circumstances and may take other actions as may be appropriate under Sections 36, 38 or 40 of the Radiation Protection Act of 1990 [420 ILCS 40/36, 38, and 40] and this Chapter.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)

Section 370.170 Mammography Units Used for Localization or Biopsy Procedures

a) Personnel. The following requirements apply to all personnel involved in localization or biopsy procedures performed with mammography units:

1) The mammography unit shall be operated by or under the direction of a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60].

2) Radiologic technologists operating mammography units for localization or biopsy procedures shall meet the general requirements, mammography requirements and continuing education and experience requirements as specified in Section 370.70(b) of this Part.

3) Medical physicists who perform and provide oversight of quality assurance programs for mammography units used for biopsy procedures shall meet the requirements of Section 370.70(c) of this Part.

b) Equipment. Mammography units used for localization or biopsy procedures shall meet the requirements of Section 370.80 of this Part, except that digital output mammography systems that do not use screen-film image receptors are exempt from the requirements of Section 370.80 of this Part as they relate to screen-film image receptors.
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c) Quality assurance. Each facility shall establish and maintain a quality assurance program to ensure the safety, reliability, clarity and accuracy of mammography localization or biopsy procedures performed at the facility.

1) Each facility shall have the services of a medical physicist available to survey mammography equipment and to oversee the equipment-related quality assurance practices of the facility.

2) The quality assurance program shall be in writing and shall have been developed by a medical physicist. The program shall include, but need not be limited to, the following:

   A) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and

   B) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.

3) The medical physicist shall conduct a review of the quality assurance program each year. Such review shall include evaluation of the results of quality assurance testing.

d) Each facility shall maintain written records of the radiation dose measurements and quality assurance testing performed, as required in this Section, for inspection by the Agency for a period of at least one year. Such records shall include, but need not be limited to, the following:

1) The date of the test and identification of the person performing the test;

2) Identification of the type of testing that was performed; and

3) Notation of whether the results of the testing were within the parameters established by the medical physicist.

AGENCY NOTE: The Agency recommends that facilities performing interventional mammography seek accreditation through the Stereotactic Breast Biopsy Program of the American College of Radiology.

(Source: Amended at 29 Ill. Reg. 20963, effective December 16, 2005)
NOTICE OF ADOPTED RULES

1) **Heading of the Part**: Payday Loan Reform Act

2) **Code Citation**: 38 Ill. Adm. Code 210

3) **Section Numbers**: Adopted Action:

   - 210.1 New Section
   - 210.10 New Section
   - 210.15 New Section
   - 210.20 New Section
   - 210.30 New Section
   - 210.40 New Section
   - 210.50 New Section
   - 210.60 New Section
   - 210.65 New Section
   - 210.70 New Section
   - 210.80 New Section
   - 210.90 New Section
   - 210.100 New Section
   - 210.110 New Section
   - 210.120 New Section
   - 210.130 New Section
   - 210.140 New Section
   - 210.150 New Section
   - 210.160 New Section
   - 210.170 New Section
   - 210.180 New Section
   - 210.190 New Section
   - 210.200 New Section
   - 210.210 New Section
   - 210.220 New Section
   - 210.230 New Section
   - 210.240 New Section
   - 210.250 New Section
   - 210.260 New Section

4) **Statutory Authority**: Implementing the Payday Loan Reform Act [815 ILCS 122]

5) **Effective Date of Rules**: December 16, 2005

6) **Does this rulemaking contain an automatic repeal date?** No
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7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Date Notice of Proposal published in Illinois Register:** August 26, 2005; 29 Ill. Reg. 13073.

10) **Has JCAR issued a Statement of Objection to these Rules?** No

11) **Differences between proposal and final version:** Language was added to Section 210.150 to mirror the statute and clarify that the Director’s written approval is not required if the licensee is operating another business pursuant to another license issued by the Department. In addition, three new sections were added. Section 210.240 provides the language of the consumer written verification required by the Act prior to the implementation of or in the absence of the availability of a certified database. Section 210.250 sets out acceptable income documentation a licensee must use to calculate a consumer’s gross monthly income. Section 210.260 provides the information that a licensee is required to input into the certified database to determine whether a consumer is eligible for a payday loan pursuant to the requirements of the Act; it also sets out the information the licensee must input to update the database once the loan is made. Various non-substantive changes have also been made throughout the Part.

12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will these rules replace emergency rules currently in effect?** No

14) **Are there any rules pending on this Part?** No

15) **Summary and purpose of rules:** House Bill 1100 (Public Act 94-0013), effective December 6, 2005, created the Payday Loan Reform Act to provide that the Department of Financial and Professional Regulation shall license and regulate entities that offer payday loans. It establishes requirements and restrictions regarding license applications and licensing. The Act contains provisions regarding limitations, requirements, and disclosures applicable to loan agreements, terms of loans, finance charges, and renewal of loans. It also contains provisions regarding revocation, suspension, and surrender of licenses. The Act also created a database, certified by the Department, which must be accessed by licensees to
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determine whether a consumer is eligible for a payday loan in accordance with the requirements of the Act.

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

Barb Smith  
Rules Coordinator  
Department of Financial and Professional Regulation  
Division of Professional Regulation  
320 West Washington Street, 3rd Floor  
Springfield IL  62786

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

Susan Gold  
Deputy Counsel  
Department of Financial and Professional Regulation  
Division of Financial Institutions  
JRTC – 15th Floor  
Chicago IL 60601

312/814-1524
Fax #: 312/814-5168

The full text of the Adopted Rules begins on the next page:
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TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 210: PAYDAY LOAN REFORM ACT

Section
210.1 Definitions
210.10 Minimum Requirements for Office Records
210.15 Application for Payday Lender License; Controlling Person
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210.40 File of Original Papers
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210.70 Payments
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210.220 Servicing of Accounts by Contract
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210.240 Consumer Written Verification of Compliance with Act
210.250 Gross Monthly Income Verification
210.260 Certified Database/Commercially Reasonable Method of Verification

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].

Section 210.1 Definitions

"Act" means the Payday Loan Reform Act [815 ILCS 122].

"Controlling person" means a person owning or holding the power to vote 25% or more of the outstanding voting securities of a licensee or the power to vote the securities of another controlling person of the licensee. For the purpose of determining the percentage of a licensee controlled by a controlling person, the person's interest shall be combined with the interest of any other person controlled, directly or indirectly, by that person or by a spouse, parent, or child of that person.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Financial Institutions with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Generally accepted accounting principles" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board and incorporated by reference in Section 210.15.

"Hypothecate" means to pledge a security instrument without transfer of title.

"Licensee" means a lender and licensee as defined in Section 1-10 of the Act.

"Loan Receivables" means the outstanding balances due on the loans of the licensee.

"Other business authorization" means the authorization in writing required by Section 3-5(g) of the Act to conduct another business in a location licensed under the Act that would not be contrary to the best interest of consumers.

"Payday Lender License" means a license issued pursuant to the Act.

"Person" means an individual, partnership, association, joint stock association, corporation, or any other form of business organization.
"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

**Section 210.10  Minimum Requirements for Office Records**

a) Every licensee shall keep the following records at the licensed location:

1) Loan register.
2) Individual account records, including transaction histories of consumers.
3) File of all original papers.
4) Cash book.
5) Alphabetical record of all co-makers, consumers or sureties.
6) Permanent file.
7) Information required by Section 2-55 of the Act.

b) Records for loans made under the Act shall be kept separate or readily identifiable from other types of business conducted in the office, if allowed.

c) Electronic data processing, combination forms and special office systems may be used if in accordance with standard accounting procedures and if they contain the information enumerated in subsection (a).

**Section 210.15  Application for Payday Lender License; Controlling Person**

a) An application for a license must be in writing, under oath, and in the form the Director prescribes that is available on the agency's website. The Director may not issue a license unless and until the findings as set forth in Section 3-5(b) of the Act are made. These findings include that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business will be operated lawfully and fairly and within the provisions and purposes of the Act. [815 ILCS 122/3-5(b)(1)] The application shall contain the following:
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1) The name of the applicant and the address of the proposed place of business;

2) The form of business organization of the applicant, including:
   A) a copy of its filed articles of incorporation;
   B) a copy of the filed articles of organization, if the applicant is a limited liability company;
   C) a certified statement of the ownership of the partnership and any subsequent changes in ownership, if the applicant is a partnership.

3) The name, business and home address, credit report (except for a publicly traded company) and a chronological summary of the business experience, material litigation history, and felony convictions over the preceding 10 years of:
   A) the proprietor, if the applicant is an individual;
   B) every general partner, if the applicant is a partnership;
   C) President, Secretary, Executive and Senior Vice Presidents, Directors and individuals owning more than 25% of the corporate stock, if the applicant is a corporation; and
   D) the manager, if the applicant is a limited liability company.

4) A licensee shall not submit the information required in subsections (a)(2) and (3) of this Section if the licensee has previously submitted the information to the Division in a previous license application within the last 5 years and there have been no material changes, unless requested by the Director.

5) The most current year end financial statements, prepared in accordance with generally accepted accounting principles (Miller Comprehensive GAAP Guide, Harcourt Brace & Co., 6277 Sea Harbor Dr., Orlando FL 32877 (2005, no subsequent dates or editions)) and a balance sheet and statement of operations as of the most recent quarterly report before the date of the application.
6) A list of all states in which the applicant is licensed as a payday lender or short-term lender, or under a similar license, and whether the licenses of the applicant have ever been withdrawn, refused, cancelled or suspended in any other state, with full details.

7) Bond as required by the Act.

8) Appointment of attorney-in-fact.

9) Business plan, which shall only detail the nature, amount and term of loans to be made and types of security that will be taken.

10) Photographs of both the inside and outside of the proposed site.

11) Details of any other businesses that will be conducted within the licensed premises, if allowed.

12) Information form.

13) The applicable fees as required by Section 3-5(e) of the Act.

14) Any additional information the Director considers necessary (for example, clarification of credit report, additional documentation clarifying business plan, clarification or additional documentation regarding financial statements, etc.).

b) A licensee that is a corporation must notify the Director within 15 days after a person becomes a controlling person. Upon notification, the Director may require all information he or she considers necessary to determine if a new application is required. A licensee that is an entity other than a corporation shall submit a new application to the Director seeking prior approval whenever a person proposes to become a controlling person or acquire an ownership interest.

**Section 210.20 Loan Register**

a) The loan register shall contain the original entry and be a permanent record, and shall show for every loan the account number, date of loan, name of consumer, nature of security, amount of fees, and total loan amount.
b) The loan register shall be kept numerically by number of loans in order made, and shall have headings for each of the items required by subsection (a).

Section 210.30 Individual Account Records

a) An individual account record, that may be maintained in electronic form, shall be kept for each consumer. The account record shall show the name and address of the consumer, co-makers, or sureties, loan number, date of loan, the number of payments, the amount of payments and payment due dates, nature of security by type, and name of the financial institution if the loan agreement is hypothecated.

b) If payment is made in any other way than in the ordinary course of business, it shall be so designated. (For example, payment by a third party.)

c) If loan receivables are sold to another person, the individual account record for receivables shall show the name of the authorized person to whom sold and the date of sale.

d) No erasures whatsoever shall be made in the payment and charge sections of any account record. In case of error, a line shall be drawn in ink through the improper entry and the correct entry made on the following line. The entries on the record shall correspond with the receipts given the consumer.

e) Every licensee shall preserve the records of all loans, including the account record, for at least two years after making the final entry for the loan.

Section 210.40 File of Original Papers

a) Files

1) A separate file shall be maintained for each consumer and shall contain the loan agreement, security agreement, wage assignment, acknowledged copy of the disclosure statement of loan, a separately signed statement indicating the borrower has received a copy of the lender's right to rescind, and all other evidence of indebtedness or security pertaining to the loan, except when these documents are in the custody of a court or of an agent for collection, or are hypothecated as provided in Section 210.90. Evidence of disclosure must be retained for two years from the date of the loan. A licensee may maintain these files in any medium or format that accurately reproduces original documents or papers.
2) When a consumer is also a co-maker or consumer on another loan, the file of that consumer shall be cross-referenced to the other, unless a cross-reference is included on the alphabetical record required by Section 210.60.

b) All legal instruments bearing evidence of indebtedness taken in connection with a loan and executed by a consumer, including the disclosure statement of the loan, shall bear the loan number.

c) No licensee shall offer to or accept from a consumer any instruments that contain blank terms. All spaces or sections not used in the preparation of legal documents shall be ruled out or designated as "none" or "n/a", and any amendments shall be signed by the consumer and licensee.

d) The name and address of the licensee making the loan shall appear on any loan agreement, wage assignment, security agreement or other legal instrument taken from a consumer, before the proceeds of the loan are delivered.

Section 210.50  Cash Book

a) All receipts and disbursements of any amount whatsoever shall be entered on the day they occur in the cash book or equivalent record. Separate headings shall be provided for payments on principal and for fees collected from consumers.

b) The cash book shall be a permanent record of all details of income and disbursements, including all entries to individual accounts of borrowers.

Section 210.60  Alphabetical Record of Co-Makers, Consumers or Guarantors

The alphabetical record shall show the account number and the name of each co-maker, consumer or guarantor who is currently indebted to the licensee, together with sufficient information to locate the account record.

Section 210.65  Permanent File

Each licensee must maintain a permanent file that includes the following:

a) A copy of all correspondence sent to or received from the Division within the past 24 months.
b) A copy of the last two examination exception reports and any related correspondence.

c) A copy of the Act and a copy of this Part.

Section 210.70 Payments

a) All payments shall be credited on the account record as of the date received.

b) When a payment is made in cash, the licensee shall give a receipt to the consumer. A receipt is not required for payment by check or money order unless requested by the consumer.

Section 210.80 Cancellation and Return of Documents

The loan agreement executed by the consumer bearing evidence of indebtedness shall be cancelled and returned to the consumer promptly following the paid in full date or upon cancellation of future payment obligations pursuant to Section 2-25 of the Act. Where original documents are not available, a licensee shall substitute copies reproduced from any medium or format that accurately reproduces the original documents. If an executed copy of a legal document is retained following payment in full or renewal, it must be clearly marked "PAID", "CANCELLED" or "RENEWED", indicating the date of payment or renewal. Copies clearly identified with the legend "COPY NOT NEGOTIABLE" or similar language may be used in lieu of this requirement.

Section 210.90 Hypothecation at the Time of the Sale of Consumer's Loan Agreement

a) A licensee may pledge, hypothecate or sell a loan agreement made under the provisions of the Act under the following conditions:

1) the licensee notifies the Division in writing within 10 days after the transaction indicating the name of the purchaser/pledgee, location where the related loan agreements can be examined, and that the licensee shall be responsible for all examination costs.

2) the licensee will provide the Division with an executed agreement entered into by the licensee and the purchaser/pledgee authorizing the Director to conduct an examination of these loan agreements.
b) Each instrument hypothecated must bear the following endorsement:

"This instrument is non-negotiable in form but may be pledged as collateral security. If so pledged, any payment made to the payee, either of principal or of interest, upon the debt evidenced by this obligation, shall be considered and construed as a payment on this instrument, the same as though it were still in the possession and under the control of the payee named herein; and the pledgee holding this instrument as collateral security hereby makes said payee its agent to accept and receive payments hereon, either of principal or of interest."

c) The licensee shall keep in the licensed office a record or list of all account records of all loans sold to another affiliated or non-affiliated licensee at the time of the sale. The account shall be maintained in the record or list until examined and released by the examiner. This record or list shall indicate the date of transaction, the account name and number, and the names of the other buyer in the transaction.

Section 210.100 Legal Forms

a) Submission to the Division

1) All forms of loan agreements, security agreements or assignments of wages or other forms used in connection with the making of loans shall be submitted to the Division prior to the conduct of business in the licensed location; provided, however, where the licensee or affiliate is engaged in the same business and licensed by this Division, the use of forms in the new location identical to those being used in the existing location shall not require filing. Notice of intent to use identical forms (change of name excepted) should be provided the Division by the licensee.

2) Should the licensees at any time following submission of forms modify the forms previously submitted, the forms as modified shall be submitted to the Division.

b) Standard forms approved by the Division, that are available on the agency's website, shall be used in the following cases:

1) Application for original license.

2) Application for annual renewal of license.
Section 210.110 Judgments

a) When a loan agreement has been reduced to judgment, the face of the account record shall show the amount and date of the judgment.

b) All payments received shall be applied to the judgment balance and be properly identified. The rate of interest charged on a judgment balance must comply with current applicable statutes. No higher rate of interest or charge shall be assessed or accepted.

c) The files of the licensee shall contain statements setting forth the following items:

1) Date of judgment.
2) Copy of the judgment.
3) Date suit was filed.
4) Amount of the judgment.

d) If records related to the judgment are kept off-site as approved by the Director pursuant to Section 210.220 of this Part, the licensee shall make these documents available from that site or return the records to the licensed location within 72 hours after the Division's request.

Section 210.120 Trouble File

A separate and complete file shall be kept containing all records pertaining to judgments and sales. These records shall be filed alphabetically under the name of the consumer or by account number.
Section 210.130 Office and Office Hours

Every licensee shall maintain a place of business to which the general public shall have free access and where all obligations entered into shall be payable.

a) Except as provided in subsection (c), or otherwise authorized by the Division, each licensed office shall be open not less than three consecutive hours between 8:00 A.M. and 6:00 P.M. on every business day, except Saturdays, Sundays and legal holidays, during the term of the license, and the licensee shall file with the Division a schedule of the hours during which it elects to keep the office open, provided that any licensee may keep its office open for any period it sees fit in addition to the hours listed in the schedule.

b) Whenever a licensee desires to change its schedule of office hours on file with the Division, it may do so upon filing with the Division a schedule setting forth the change of time at least three days before the change shall go into effect. The schedule of hours shall be prominently displayed in the place of business of the licensee.

c) If any payment shall be due on any obligations to a licensee on any closed day, then the payment shall be considered, for all purposes, as having been received on the closed day, if the payment is received, whether through the mail or otherwise, at any time before the close of business on the next regular business day following the closed day.

d) The license of each licensee and the annual license fee renewal certificate shall be prominently displayed and be made available for easy reading by the public in the place of business of the licensee.

Section 210.140 Advertising

a) Licensees shall not make reference in any form of advertising, such as newspapers, circulars, letters, radio, or other media, to "low rates", "lower rates", "lowest rates" or "lowest cost", nor shall licensees indicate, by direct or indirect means, through such expression as "low cost", "lower cost", "low payments", "lower payments" or "easier to repay", that the charges or payments for a loan are low.

b) Upon specific request by the Division, licensees shall forward to the Supervisor of the Consumer Credit Section the complete text of all advertising copy, whether
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printed or broadcast, that is the subject of questions raised concerning compliance with the Act.

c) A licensee may indicate in advertising and otherwise that its business is "regulated", "examined", "supervised" or "licensed" by the State of Illinois. A licensee may not advertise in a false, misleading or deceptive manner or imply or indicate that the rates or charges for loans made are "approved", "set" or "established" by the State or by the Act.

d) The licensee shall not advertise the conduct of business other than at the licensed location or other location approved by the Director.

Section 210.150 Other Business

No other business, except one licensed by the Department, may be conducted within any office suite, room or place of business in which any other business is solicited or engaged in unless authorized in writing by the licensed location unless authorized in writing by the Director. [815 ILCS 122/3-5(g)] If written authorization is required pursuant to Section 3-5(g) of the Act, the Director's authorization will be predicated upon the licensee agreeing to the following:

a) That the authorization will not conceal nor facilitate concealment of an evasion of the Act;

b) To comply with any State or federal statute or regulation;

c) To obtain any license or registration required by a federal, State or local government agency to engage in the other business authorized;

d) That the Division may examine all records and investigate any or all transactions of the licensee;

e) The Director retains the right, upon notice and opportunity to be heard, to alter, amend or revoke an other business authorization;

f) That, if any federal or State statute or regulation, regardless of when enacted, prohibits the activity, the authorization shall become null and void immediately;

g) At the time of making a request, the licensee shall pay to the Director a nonrefundable other business authorization request fee of $100;
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h) At the time of renewing the annual license, the licensee shall pay to the Director the sum of $25 for each other business authorization. Regardless of the number of licensed locations, only one fee per other business authorization is required.

Section 210.160 Examination Remittances

a) Licensees shall forward all examination remittances, as provided in Section 3-5(e) of the Act, to the Division at any address designated by the Director.

b) All fees and charges shall be remitted in the form of a check, draft or money order to the Department of Financial and Professional Regulation.

Section 210.170 General

a) Notary fees shall not be charged to or collected from the consumer.

b) Examination of Records

1) The Division may examine all records and investigate any or all transactions in the office of the licensee and shall charge the licensee $400 for each examiner day or portion of an examiner day.

2) The examination of the books and records of the licensee may be conducted concurrently with the examination of any other business conducted by the licensee that is regulated or licensed by the Division. A separate charge shall be made for each examiner day or portion of an examiner day.

3) The Division may conduct an examination for the purpose of verifying that the licensee has taken necessary actions to correct violations of the Act or this Part and shall charge the licensee $550 for each examiner day or portion of an examiner day, when the Director determines the verification examination must be performed on site at any facility of the licensee.

c) For the purpose of any reports required by the Division, expenses of all businesses conducted in the licensed office shall be allocated to each separate business at the end of each year. The Division shall require information as to all the businesses in the licensee's annual report.
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Section 210.180 Relocation

a) Whenever a licensee desires to change the licensed place of business to a location other than that set forth in the license and the proposed site is 15 miles or less from the current location, the licensee shall provide the Division with the following at least 10 days prior to the relocation:

1) A written notice providing the complete address of the new location;

2) Photographs of both the exterior and interior of the new location;

3) A written sworn statement that the new location will not share the premises with that of another business and the exact distance in miles between the existing location and new location;

4) A relocation fee of $300; and

5) The original license for endorsement.

b) A relocation in excess of 15 miles requires the prior approval of the Director in addition to the information required in subsection (a) of this Section.

Section 210.190 Name Change

Whenever the licensee desires to amend the name of the licensed business, the licensee shall submit to the Division, within 15 days after amending the name, the following:

a) $300 amended name change fee.

b) Amended Articles of Incorporation, if the licensee is a corporation, or amended organization papers, if the licensee is an entity other than a corporation.

Section 210.200 Hearing Procedures

a) Hearings

After receipt of a written request for a hearing, the Director shall send a Notice of Hearing to the respondent requesting the hearing, by certified mail, at least 10 days prior to the date set for the hearing. The notice shall include the date and the time and place of the hearing to review the propriety of any administrative actions taken pursuant to the Act.
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b) The Director may designate, in writing, a Hearing Officer who shall have the minimum qualification of being licensed to practice law in Illinois. The Hearing Officer may be disqualified for bias or conflict of interest. The Hearing Officer shall have the authority to:

1) Examine or permit examination of any witness under oath;

2) Determine the order of appearance of all parties;

3) Receive all evidence and testimony and rule on its admissibility, as well as require the production of any relevant document or witness;

4) Rule on objections to evidence;

5) Make a written report with recommendations to the Director that shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and

6) Require any party or the party's attorney to provide proposed findings of fact or conclusions of law for consideration in the Hearing Officer's report.

c) General Provisions

1) Delivery of notice shall be deemed complete when the notice is deposited in the United States mail.

2) A continuance shall be granted for good cause by the Hearing Officer. For the purposes of this subsection (c)(2), good cause shall require the respondent to demonstrate real and compelling need for additional time. It shall include, but not be limited to, illness, service in the armed forces, etc. The continuance shall be:

A) In writing and signed by the respondent or the respondent's attorney and shall state the reasons for the request.

B) Delivered to the Hearing Officer at least three days prior to the scheduled hearing.

3) The licensee shall bear all the costs of the hearing.
4) A court reporter will be present and considered as part of the costs of the hearing.

d) Conduct of Hearings

1) The Hearing Officer shall open the hearing by presenting for the record his letter of authorization from the Director.

2) The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. The Hearing Officer may admit evidence not admissible under circuit court rules if that evidence may be relevant to the case.

3) The Hearing Officer may, on his own motion or the motion of one of the parties, take notice of matters of which the circuit courts of this State may take judicial notice. Notice may be taken of generally recognized technical or scientific facts within the Division's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed. The burden of opposing any material admitted upon notice shall be upon the party so opposing.

4) Failure of the respondent to attend the hearing shall result in dismissal of the respondent's petition and an entry of a default against the respondent. Within 30 days after dismissal of the respondent's petition, the respondent may petition the Hearing Officer for reconsideration if the respondent can establish that his or her failure to attend was caused by events beyond his or her control and he or she exercised due diligence to attend or seek a continuance.

5) The record of any hearing shall include:

   A) All pleadings and evidence received, whether admitted or excluded;

   B) A statement of all matters officially noticed;

   C) All offers of proof and objections and rulings on those offers;

   D) All proposed findings and exceptions;
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E) Any decision, opinion, or report by the Hearing Officer;

F) Any evidence excluded by the Hearing Officer, even though that evidence is not used in the determination of the claim;

G) A proceeding transcript that shall be recorded by a means that adequately ensures the preservation of the testimony.

6) Within 60 days after the hearing or the receipt of all necessary documents, the Hearing Officer shall report to the Director.

7) Within 30 days after receiving the report of the Hearing Officer, the Director shall issue his or her decision, which shall be served on the respondent by registered or certified mail, return receipt requested. Copies of the Hearing Officer's report to the Director are available upon written request.

e) Petition to Reconsider

1) Within 30 days after receipt of the Director's decision, the respondent may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition, stating that the decision was against the preponderance of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or that could not have been discovered using due diligence at that time.

2) The Director shall determine within 15 days whether to reconsider the case. If the Director determines after reading the affidavit that one or more of the conditions outlined in subsection (e)(1) has been alleged by the respondent, a hearing may be held and shall be limited to only those issues raised in the petition to reconsider. If reconsideration is denied, the Director's initial decision shall be the final administrative decision of the Division.

Section 210.210 Off-Site Records

With the Director's prior written approval, the licensee may retain records at a location other than the licensed location. The licensee shall make a written request that shall include the following:
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a) Address of off-site location.

b) Contact person and telephone number at the off-site location.

c) Statement that all books, records and account information shall be made available within 72 hours after the Division's request at either the licensed location or the off-site location.

d) At the Director's discretion, the examination may be conducted at either the licensed location or the off-site location.

e) The licensee will pay for all examination expenses.

Section 210.220 Servicing of Accounts by Contract

Upon prior approval of the Director, the licensee may contract with a third party provider for servicing of accounts (e.g., processing of payments, collections, etc.). A request for the Director's approval shall be in writing and shall include the following:

a) Name and address of proposed servicer;

b) Executed contract, conditioned upon approval by the Director, between licensee and servicer;

c) Contact person and telephone number of the servicer;

d) A statement that the licensee will make all books, records, and account information readily available for examination by the Division;

e) A statement that the licensee will pay all examination expenses; and

f) Written consent of servicer for the Division to conduct its examination.

Section 210.230 Revocation or Suspension of License

If it is determined that the Director had the authority to issue the suspension or revocation of a license pursuant to Section 4-10(f) of the Act, he or she may issue orders as may be reasonably necessary to correct, eliminate or remedy the situation.
Section 210.240 Consumer Written Verification of Compliance with Act

a) Prior to the implementation of a certified database and in the absence of the availability of a certified database, a consumer written verification form must be completed to verify that a proposed loan agreement is permissible under the Act.

b) The form must be in a separate document printed in 14-point bold type and must contain the following language:

1) I currently have ____ outstanding loan(s) made pursuant to the Payday Loan Reform Act (the "Act") with a total principal balance of $______.

2) I currently have ____ outstanding loan(s) under a Repayment Plan pursuant to Section 2-40 of the Act with a total principal balance of $______.

3) I have not been indebted for a period of 45 consecutive days or more to any one or more lenders on a loan(s) made pursuant to the Act.

4) Other than a loan in repayment pursuant to Section 2-40 of the Act, at least 7 calendar days have passed since the day that all loans made to me under the Act in any previous 45 day period were paid in full.

5) At least 14 calendar days have passed since the day that the outstanding balance of a loan in a repayment plan pursuant to Section 2-40 of the Act and the outstanding balance of all other loans made pursuant to the Act were paid in full.

c) The consumer must complete and sign the form attesting that the consumer understands that the lender making the loan under the Act is relying on the verification to determine whether the loan for which the consumer applied is permissible under the Act.

Section 210.250 Gross Monthly Income Verification

Prior to making a loan under the Act, the licensee must obtain from the consumer one or more of the following types of documentation to verify the gross monthly income of the consumer as required by Section 2-5(c) of the Act.
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a) A copy of the consumer's official pay stub or official payroll receipt, for the period 30 days prior to the date on which the loan is made.

b) A copy of the consumer's official receipt documenting payment of government benefits, for the period 30 days prior to the date on which the loan is made.

c) Other documentation as approved by the Director.

Section 210.260 Certified Database/Commercially Reasonable Method of Verification

a) Certified Database. In order to certify a consumer reporting service as a commercially reasonable database pursuant to the Act, the provider must comply with the following provisions:

1) Single, centralized consumer reporting service to track payday loan transactions made by licensees under the Act on a real time basis.

2) Real time access by the Division and licensees to verify that individual consumers are eligible for a loan pursuant to the requirements of the Act.

3) All requirements in Section 2-15 of the Act regarding verification.

4) Customer support to licensees and consumers during regular business hours.

5) Develop and provide training to Division staff and licensees under the Act prior to implementation and on an ongoing basis.

6) Provide a charge-back methodology to licensees not to exceed $1 for each search to determine eligibility of the consumer for a loan under the Act.

7) All requirements of Section 2-17 of the Act regarding qualifications and bonding.

8) All confidentiality and privacy requirements of the Act and required by law.

b) Additional Database Providers. As technology advances permit, the Division may certify additional database providers in the future. Any additional database provider must guarantee, to the satisfaction of the Director, that the additional
database can interface with any other certified database to provide a single point of verification for licensees and the Division to determine consumer eligibility for a loan pursuant to the Act and to provide a single source for reporting purposes.

c) Licensee Input into Database

1) The licensee shall input the following information into the certified database to determine whether the consumer is eligible for a loan pursuant to the requirements of the Act:

   A) Consumer's Social Security Number or Alien Identification Number.

   B) Consumer's gross monthly income.

   C) Any additional information required by the database provider.

2) On the same day the payday loan is made, the licensee shall update the certified database with the following information:

   A) Consumer's Social Security Number or Alien Identification Number.

   B) The principal amount of the loan.

   C) The total amount of the loan.

   D) The term of the loan.

   E) Security accepted for the loan.

   F) Any additional information required by the database provider.

3) The licensee shall update the certified database with the information required by the database on the same day the loan transaction is made, including, but not limited to, the following transactions:

   A) Electing a repayment plan.

   B) Paying the loan in full.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

C) Making a partial payment.

D) Depositing the check used as security for the loan.

E) Canceling a loan within 48 hours as allowed by the Act.

F) Recording an NSF return on a previously closed transaction.

G) Return of security.

H) Any other transaction as required by the database provider.
DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Illinois Military Relief Fund Act

2) **Code Citation:** 95 Ill. Adm. Code 200

3) **Section Numbers:**

   - 200.5   Amend
   - 200.10  Amend
   - 200.20  Amend
   - 200.30  Amend
   - 200.40  Amend
   - 200.50  Amend
   - 200.60  Amend
   - 200.70  Amend
   - 200.80  Amend
   - 200.90  Amend

4) **Statutory Authority:** 20 ILCS 1805

5) **Effective Date of Amendments:** December 16, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** 29 Ill. Reg. 16077; December 17, 2004

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No
DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

15) Summary and purpose of amendments: This rulemaking implements changes in the eligibility requirements for grants made by the Department of Military Affairs from the Illinois Military Relief Fund so that single-service members now may qualify for the same grants previously available only to service members with families.

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

Jim Devereux, Legislative Liaison
Department of Military Affairs
Camp Lincoln
1301 N. MacArthur Blvd
Springfield IL 62702

217/761-3736

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER II: DEPARTMENT OF MILITARY AFFAIRS

PART 200

ILLINOIS MILITARY FAMILY RELIEF FUND ACT

SUBPART A: DEFINITIONS

Section 200.5 General Purpose
Section 200.10 Definition of Terms Used

SUBPART B: ELIGIBILITY

Section 200.20 Determination of Eligibility for Family Need Based Grants
Section 200.30 Determination of Eligibility for Status Based Grants
Section 200.40 Determination of Eligibility for Casualty Based Grants

SUBPART C: GRANTS

Section 200.50 Family Need Based Grant Levels and Limits
Section 200.60 Status Based Grant Levels and Limits
Section 200.70 Casualty Based Grant Levels and Limits
Section 200.80 Documentation, Application, Payment and Denial

SUBPART D: REPORTING

Section 200.90 Reporting Requirements

AUTHORITY: Implementing and authorized by Section 22-9 of the Illinois Military Code [20 ILCS 1805/22-9].

SUBPART A: DEFINITIONS

Section 200.5 General Purpose

The intent of Section 22-9 of the Illinois Military Code and this Part is to provide an opportunity on standard individual income tax forms to allow taxpayers to contribute to the Illinois Military Family Relief Fund, and to provide the Illinois Department of Military Affairs the power to make grants from the fund to families of Illinois National Guard members or other Reserve component members (including National Guard members of other states) who are Illinois residents and were called to active military service as a result of the September 11, 2001 terrorist attacks. The grants shall be in the form of three types of payments:

a) payments based on the need of the member or the member's family as determined eligible under Section 200.20;

b) payments based on the member's status as a member of the Illinois National Guard or other Reserve component, made to the member or the member's family as determined eligible under Section 200.30; and

c) payments based on the member's casualty status as determined under Section 200.40, payments to the member's next of kin as determined eligible under Section 200.40.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.10 Definition of Terms Used

"Active duty" means: Military service performed as State Active Duty under the Illinois Military Code [20 ILCS 1805], or corresponding provision of the applicable State statute for Illinois residents who are National Guard members of other states; military service performed under the provisions of Title 32, United States Code; or military service performed under the provisions of Title 10, United States Code.

"Duty as a result of September 11, 2001 terrorist attacks" means: active duty service of a minimum of 30 consecutive days, directly related to the President's Partial Mobilization Authority in response to the attacks (currently referred to as Operation Noble Eagle and Operation Enduring Freedom); any future operations
"Family" means: A husband, wife, child, mother, father, brother, sister, or other person who has been approved as a dependent and is enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) in accordance with applicable military regulations. A custodial parent or guardian of a member's dependent may apply for a grant on behalf of that dependent.

"Next of kin" means: The person listed as next of kin for the member in DEERS. In the case of multiple entries for next of kin, the first person listed shall be considered next of kin for the purposes of this Part.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

SUBPART B: ELIGIBILITY

Section 200.20 Determination of Eligibility for Family Need Based Grants

a) The grant applicant must show proof of the following:

1) He or she is a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component, applying on behalf of his or her family, or is a family member of that member. Proof of residency for military members will consist of information obtained from DEERS. Proof of a familial relationship will also consist of information obtained from DEERS.

2) The Illinois National Guard or Reserve component member was on active military duty for at least 30 consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a copy of the orders issued by an authorized headquarters ordering the member to such duty, and documentation showing that such duty was actually performed. Eligible active duty includes any active duty since September 11, 2001.

3) A copy of a payroll record from the member’s civilian employer that indicates member’s monthly salary plus a copy of a military payroll record that indicates the member’s monthly salary.
DEPARTMENT OF MILITARY AFFAIRS

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4) Proof that the military salary (including Basic Allowance for Housing) of the member has decreased by 30% or greater from his or her civilian salary.

5) Proof that the member or family member has incurred or is about to incur a specific monetary expense relating to clothing, food, housing, utilities, medical services, medical prescriptions, insurance or vehicle payments. Such proof shall include, but is not limited to, a copy of a bill, invoice, estimate, cancellation notice, or any other similar record.

6) A signed statement that the grant request is for the purpose identified in the application and that the grant funds will be used for the purposes requested.

7) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an commissioned officer, or W-3W-2, if a warrant officer. Individuals or families will be eligible for the grant based upon rank at the time of the mobilization. Proof of pay grades will consist of information obtained from DEERS.

8) If a custodial parent or guardian is applying for a grant on behalf of a member's dependant, then the custodial parent or guardian must provide proof of guardianship of a member's dependant currently enrolled in DEERS.

9) The Adjutant General is authorized to waive the requirements in subsection (a)(4) upon a written request indicating the circumstances justifying such a waiver, and upon proof that there has in fact been some decrease from the member’s civilian salary. Such circumstances include, but are not limited to, death, injury or incapacity of the member, long-term deployment of the member and unexpected expenses incurred by the member’s family. The Adjutant General may use discretion in granting or denying such requests.

b) The following members are ineligible to receive grants:

1) All commissioned and warrant officers with pay grades of O-4 and W-4W-3, or higher;
DEPARTMENT OF MILITARY AFFAIRS

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2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service;

3) Members who are unmarried and have no family members enrolled in DEERS;

4) Members who, at any time prior to the disbursement of funds pursuant to a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.30 Determination of Eligibility for Status Based Grants

a) The grant applicant must show proof of the following:

1) He or she is a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component, applying on behalf of his or her family, or is a family member of that member. Proof of residency for military members will consist of information obtained from the Defense Enrollment Eligibility Reporting System (DEERS). Proof of a familial relationship will also consist of information obtained from DEERS.

2) The Illinois National Guard or Reserve component member was on active military duty for at least 30 consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a copy of the orders issued by an authorized headquarters ordering the member to such duty, and documentation showing that such duty was actually performed. Eligible active duty includes any active duty since September 11, 2001.

3) The Illinois National Guard or Reserve component member holds a pay grade no higher than O-3, if an commissioned officer, or W-3W-2, if a warrant officer. Individuals or families will be eligible for the grant based upon rank at the time of mobilization. Proof of pay grades will consist of information obtained from DEERS.

b) The following members are ineligible to receive grants:
DEPARTMENT OF MILITARY AFFAIRS

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1) All officers commissioned and warrant officers with pay grades of O-4 and W-4W-3, or higher;

2) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service;

3) Members who are unmarried and who have no family members enrolled in DEERS;

3) Members who, at any time prior to disbursement of funds pursuant to a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.40 Determination of Eligibility for Casualty Based Grants

a) The grant applicant must show proof of the following:

1) He or she is a member of the Illinois National Guard or an Illinois resident who is a member of another U.S. Armed Forces Reserve component, applying on behalf of himself or herself or his or her family, or who is a family member of that member or is next of kin of that member. Proof of residency for military members will consist of information obtained from DEERS. Proof of a familial relationship will also consist of information obtained from DEERS.

2) The Illinois National Guard or Reserve component member was on active military duty for at least 30 consecutive days as a result of the September 11, 2001 terrorist attacks. Proof of active duty will consist of a copy of the orders issued by an authorized headquarters ordering the member to such duty, and documentation showing that such duty was actually performed. Eligible active duty includes any active duty since September 11, 2001.

3) A statement, signed by the member or next of kin of the member, stating that the member sustained a service-connected injury, illness or death, or is killed, missing in action, or a prisoner of war.
DEPARTMENT OF MILITARY AFFAIRS

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4) Proof of next of kin status may include, but is not limited to, an affidavit signed by the applicant or information obtained from DEERS.

3) The Adjutant General is authorized to waive the 30-day requirement in subsection (a)(2) upon a written request indicating the circumstances justifying such a waiver. The Adjutant General may use discretion in granting or denying such requests.

4) The Department of Military Affairs must verify the member's casualty status with the U.S. Department of Defense that the member has been wounded or killed, is missing in action, is a prisoner of war, or was otherwise incapacitated while on active duty. Proof that the service member sustained an injury as a result of terrorist activity; sustained an injury in combat, or related to combat, as a direct result of hostile action; or sustained an injury going to or returning from a combat mission, provided that the incident leading to the injury was directly related to hostile action. This includes injuries to service members who are wounded mistakenly or accidentally by friendly fire directed at a hostile force or what is thought to be a hostile force. This rule is retroactive, but does not apply to applications for casualty based grants that were dispersed prior to December 7, 2004. No payments shall be made without such verification.

b) Applications submitted under this Section shall take precedence over all other applications.

c) The following members are ineligible to receive grants under this Section:

1) Members who, at any time prior to the disbursement of funds pursuant to a grant application under this Section, receive a punitive discharge, or an administrative discharge with service characterized as Under Other Than Honorable Conditions;

2) Members whose casualty status is the result of a self-inflicted wound or other misconduct or willful negligence by the member, or if the casualty occurs when the member is in an AWOL, deserter, or dropped-from-rolls status;
DEPARTMENT OF MILITARY AFFAIRS
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3) Personnel serving in Active Guard/Reserve (AGR) or similar full-time unit support programs unless called to Title 10 service;

4) Deceased members, as other compensations are paid by the State of Illinois.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

SUBPART C: GRANTS

Section 200.50 Family Need Based Grant Levels and Limits

a) Payments to an Illinois National Guard or Reserve component member’s family shall not exceed $2,000, to include any amounts paid under the provision of Section 200.60, during any State of Illinois fiscal year.

b) If a grant payment is to be used for the purpose of payments for food, housing, utilities, medical services or medical prescriptions, it shall be noted on the application and this information shall be sent to the Illinois Comptroller's office when a payment request is granted. These payments shall be identified as responsive to health and welfare issues.

c) No additional applications from a member or a member’s family shall be accepted within a 180-day time frame from receipt of any prior applications.

d) All grants will be paid directly to the applicant. Payments will not be made directly to creditors.

d(e) The Adjutant General is authorized to waive the requirements in subsections (a) and (c) of this Section upon a written request indicating the circumstances justifying such a waiver. The Adjutant General may use discretion in granting or denying such requests; however, in no event will payments authorized by this Section exceed $3,000 during any State of Illinois fiscal year.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.60 Status Based Grant Levels and Limits

a) All grants will be a flat rate of $500, unless the number of requests and fund balance necessitate a lesser amount as determined by the State Comptroller.
Section 200.70 Casualty Based Grant Levels and Limits

b) Illinois National Guard or Reserve component members’ families may receive a grant only one time per State of Illinois fiscal year, and only one time per active duty order.

c) All grants will be paid directly to the applicant. Payments will not be made directly to creditors.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.80 Documentation, Application, Payment and Denial

a) Application and Documentation. The rules governing the acceptance of applications are as follows:

1) To receive consideration for a grant, applicants must request and submit an application provided by the Illinois Department of Military Affairs.

2) All necessary documentation, as stated in Section 200.20, 200.30 or 200.40, must be included with the application, unless otherwise provided under DEERS, and the applicant shall authorize access to DEERS for purposes of verification.
DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

3) Applications can be submitted via facsimile, but the original documentation must be submitted before any grant payments can be authorized.

4) Incomplete applications will be returned to the applicant.

5) The Department of Military Affairs, upon receipt of a complete original application, will verify required information under DEERS and will then process the information for payment. The application shall be processed in an expeditious manner.

b) Payments.

1) Payment will be made to the applicant who has met all eligibility requirements under Section 200.20, 200.30 or 200.40. Payments will not be made to creditors and payments will be subject to applicable deductions. Payment will be made to the applicant who has met all eligibility requirements under Section 200.20, 200.30 or 200.40.

2) The timeliness of payment will be determined by the amount of funds available at the time of application.

3) If adequate funds are not available, the application will be held in a queue until funds are available.

4) Applications for casualty based grants shall take precedence over all others.

c) Denials.

1) Grant applications from those not meeting eligibility requirements will be denied.

2) A letter explaining the denial, as well as providing additional sources of available relief, will be sent to the applicant within 30 days after receipt.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)

Section 200.90 Reporting Requirements
DEPARTMENT OF MILITARY AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

a) The Adjutant General shall provide the Governor, Lieutenant Governor and Comptroller a monthly report detailing the funds requested and amount disbursed. The Comptroller is responsible for reporting grant amounts to the Illinois Department of Revenue.

b) If an application is denied for any reason, the Adjutant General shall include this information in the report called for in subsection (a).

c) The Adjutant General shall provide the Governor, Lieutenant Governor and Comptroller a monthly report containing a monthly accounting of the amount of funds donated to the fund.

(Source: Amended at 29 Ill. Reg. 21033, effective December 16, 2005)
PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Practice and Procedure for Appeals Before the Property Tax Appeal Board

2) **Code Citation:** 86 Ill. Adm. Code 1910

3) **Section Numbers:**
   - 1910.30  Amended
   - 1910.50  Amended
   - 1910.64  New Section
   - 1910.68  Amended
   - 1910.77  New Section
   - 1910.78  New Section

4) **Statutory Authority:** 35 ILCS 200/Art.7 and 16-180 through 16-195

5) **Effective Date of Amendments:** December 16, 2005.

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in the Illinois Register:** August 5, 2005; 29 Ill. Reg. 12218

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** There were changes made between the proposal and the final version of the rules. Several substantive changes were made in Section 1910.64 allowing the moving party to file a reply and in Section 1910.68 revising the requirements under which a subpoena will be issued, the manner for service and contents, and the right of a party to petition the Board for a protective order after a subpoena is issued.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will these amendments replace any emergency amendments currently in effect?** No
PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? Yes

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15) Summary and Purpose of Amendments: This rulemaking establishes a procedure for motion practice whereby the parties serve one another and the Board with copies of motions, amends the Board's subpoena provision, complies with changes made to section 16-180 of the Property Tax Code, requires notice to the Board and opposing parties of any change in representation by a party, provides for the consolidation of appeals in multiple tax years, and amends the notice provision to state that notice to the contesting party's attorney is notice to the contesting party.

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

James W. Chipman - Executive Director
Property Tax Appeal Board
Rm. 402, Stratton Office Building
401 S. Spring St.
Springfield, Illinois 62706

(217) 782-6076

The full text of the Adopted Amendments begins on the next page:
PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER II: PROPERTY TAX APPEAL BOARD

PART 1910
PRACTICE AND PROCEDURE FOR APPEALS
BEFORE THE PROPERTY TAX APPEAL BOARD

Section
1910.5 Construction and Definitions
1910.10 Statement of Policy
1910.11 Rules of Order
1910.20 Correspondence
1910.25 Computing Time Limits
1910.30 Petitions – Application
1910.40 Board of Review Response to Petition Application
1910.50 Determination of Appealed Assessment
1910.60 Interested Parties – Intervention
1910.63 Burdens of Proof
1910.64 Motion Practice – Service of Papers
1910.65 Documentary Evidence
1910.66 Rebuttal Evidence
1910.67 Hearings
1910.68 Subpoenas
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1910.70 Representation at Hearings
1910.71 Ex Parte Communications
1910.72 Informal Settlement Conference
1910.73 Pre-hearing Conference – Formal Settlement Conference
1910.74 Administrative Review
1910.75 Access to Board Records – Freedom of Information Procedures
1910.76 Publication of Annual Synopsis
1910.77 Withdrawals and Substitutions of Attorneys
1910.78 Consolidation of Appeals
1910.80 Forms
1910.90 Practice Rules
1910.95 Separability

AUTHORITY: Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].
PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS


Section 1910.30  Petitions – Application

a) In counties with less than 3,000,000 inhabitants, petitions for appeal shall be filed within 30 days after the postmark date or personal service date of the written notice of the decision of the board of review. In counties with 3,000,000 or more inhabitants, petitions for appeal shall be filed within 30 days after the postmark date or personal service date of the written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later. Faxed petitions and evidence will not be accepted by the Board.

b) Petitions for appeal shall be filed within 30 days after the postmark date or personal service date of written notice of the application of final adopted township equalization factors by the board of review. Faxed petitions and evidence will not be accepted by the Board.

c) The petition for appeal shall be on the prescribed form and a separate petition must be filed for each separately assessed parcel except for condominium buildings or unless a written request is made to the Board for the filing of a single petition for multiple parcels. Such request, together with the petition, shall be filed within 30 days after the postmark date or personal service of written notice of the decision of the board of review. Each petition shall identify and describe the particular property including the PIN or plate number, if any, assigned to the subject parcel by the county. In appeals where multiple parcels are consolidated into a single petition, the assessed values and the relief requested for each individual parcel must be separately listed.

d) Each copy of petitions filed with the Property Tax Appeal Board shall bear an original signature of the contesting party or his attorney, and shall be filed with the Clerk of the Property Tax Appeal Board.
PROPERTY TAX APPEAL BOARD
NOTICE OF ADOPTED AMENDMENTS

e) A copy of the written notice of the decision of the board of review shall be filed with the petition, if one has been issued.

f) Petitions for appeal shall be filed in triplicate and all copies of the same shall be properly signed as stated in subsection (d) of this Section. In every case where a change in assessed valuation of less than $100,000 is sought, all written and documentary evidence must be submitted in duplicate with the petition. In every case where a change in assessed valuation of $100,000 or more is sought, all written and documentary evidence must be submitted in triplicate with the petition. A photograph of the subject property should be submitted with the petition if it aids the contesting party in explaining the appeal.

g) If the contesting party is unable to submit written or documentary evidence with the petition, he must submit a letter requesting an extension of time with the petition. Upon receipt of such a request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include but is not limited to the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked.

h) Every petition for appeal shall state the facts upon which the contesting party bases his objection to the decision of the board of review, together with a statement of the contentions of law which he desires to raise. Each petition must also set forth the assessment for the subject property which the contesting party considers to be correct. If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition. Extensions of time shall be granted in accordance with subsection (g) of this Section. Failure to do so shall result in dismissal of the appeal.

i) Every petition for appeal shall give the post office address where mail addressed to the contesting party may be received by him or his attorney, together with his telephone number. Notice to the contesting party's attorney shall be deemed notice to the contesting party. The Property Tax Appeal Board must be notified in writing by any party of a change of address within 60 days of any such change.

j) The petition shall in all cases state the assessed value of the land, and the assessed value of the improvements (structures), and the total assessed value as placed on
PROPERTY TAX APPEAL BOARD

NOTICE OF ADOPTED AMENDMENTS

the property by the local assessor and by the board of review. The petition must also state the assessed valuation which the contesting party claims to be correct.

k) All information required to fully complete the petition shall be furnished by the contesting party at the time the petition is filed. Incomplete petitions and/or a letter shall be returned with an explanation of the reasons for the rejection. The contesting party must resubmit the corrected petition within 30 days after the date of the return of the petition. If the returned petition is not resubmitted within the 30 day period, the appeal will be dismissed from consideration by the Board. Petitions which are not signed, petitions which do not state the assessed valuation assigned by the local assessor and the board of review, petitions which do not state the assessed valuation considered correct by the contesting party, and petitions not containing all information as required herein, shall be treated as incomplete petitions. Written or documentary evidence will be accepted after receipt of a completed petition only when a letter requesting an extension of time was received and granted.

l) Upon receipt of a completed petition, including the written and documentary evidence from the contesting party, the Clerk of the Property Tax Appeal Board shall send a copy of the petition, including all documentary evidence, to the board of review and shall only forward a copy of the petition to the State's Attorney of the county in which the property is located. The Clerk shall cause the petition to become a part of such appeal proceedings and record.

m) If the petition for appeal is filed by an interested taxing body, rather than by the taxpayer whose assessment is in question, the taxing body must furnish the name and address of the owner of the property in question. A copy of such completed petition shall then be sent to the owner of the property. Any petition filed without the name and address of the owner of the property in question shall be treated as an incomplete petition in accordance with subsection (k) of this Section.

(Source: Amended at 29 Ill. Reg. 21046, effective December 16, 2005)

Section 1910.50 Determination of Appealed Assessment

a) All proceedings before the Property Tax Appeal Board shall be considered de novo meaning which shall mean that the Property Tax Appeal Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. The
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The Property Tax Appeal Board may accept into the record all evidence, exhibits and briefs submitted by all interested parties and render a decision without holding a hearing. On its own motion, the Board may order a hearing to be held at a time and place designated by the Board. A hearing shall be granted if any party to the appeal submits a request in writing. (Section 16-170 of the Code)

c) The decisions of the Property Tax Appeal Board will be based on equity and the weight of the evidence.

1) In all counties other than Cook, a three-year county wide assessment level to be based on relevant sales during the previous three years as certified by the Department of Revenue will be considered where sufficient probative evidence is presented indicating the estimate of full market value of the subject property on the relevant real property assessment date of January 1.

2) In Cook County, for residential property of six units or less currently designated as Class 2 real estate according to the Cook County Real Property Assessment Classification Ordinance, as amended, where sufficient probative evidence indicating the estimate of full market value of the subject property on the relevant assessment date is presented, the Board may consider evidence of the appropriate level of assessment for property in that class. Such evidence may include:

A) the Department of Revenue's annual sales ratio studies for Class 2 property for the previous three years; and

B) competent assessment level evidence, if any, submitted by the parties pursuant to this Part.

3) In Cook County, for all other classes of property, where sufficient probative evidence indicating the estimate of full market value of the
PROPERTY TAX APPEAL BOARD

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subject property on the relevant assessment date is presented, the Board may consider competent evidence admitted pursuant to this Part, if any, which is relevant to the level of assessment applicable to the subject property under the Illinois Constitution, the Illinois Property Tax Code, and the Cook County Real Property Assessment Classification Ordinance, as amended.

d) Whether or not a hearing is held in the appeal proceeding, the proceeding before the Property Tax Appeal Board shall be terminated when the Board renders a decision. The Board may revise and/or correct a decision upon its own initiative at any time prior to the expiration of the administrative review filing period as provided in Section 16-195 of the Property Tax Code if a mistake in the calculation of an assessment or other clerical error is discovered. In such event, the Board shall issue an amended decision. The decision or order of the Property Tax Appeal Board in any such appeal shall, within 10 days after it is made and entered, be certified to every party to the proceeding and to the proper authorities, including the board of review whose decision was appealed, the County Clerk who extends taxes upon the assessment in question, and the County Collector (Treasurer) who collects property taxes upon such assessment.

e) A majority of the Members of the Board is required to make a decision of the Board.

f) *If a petition is filed by a taxpayer with the Property Tax Appeal Board, the taxpayer is precluded from filing objections based upon valuation in the Circuit Court as may otherwise be permitted by Sections 21-175 and 23-5 of the Property Tax Code.* (Section 16-160 of the Code)

g) *If a taxpayer files objections based upon valuation in the Circuit Court as permitted by Sections 21-175 and 23-5 of the Property Tax Code, the taxpayer is precluded from filing a petition contesting the assessment of the subject property with the Property Tax Appeal Board.* (Section 16-160 of the Code)

h) *If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of the written notice of the Property Tax Appeal Board decision, appeal the assessment for such subsequent year directly to the Property Tax Appeal Board.* (Section 16-185 of the Code)
PROPERTY TAX APPEAL BOARD

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i) If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225 of the Code, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (Section 16-185 of the Code)

j) If a stipulation is agreed to by all interested parties, it may be taken into consideration by the Property Tax Appeal Board but must be supported by evidence in the record. The Board reserves the right to write a decision based on the facts, evidence and exhibits in the record.

k) The contesting party may, at any time before the hearing begins, upon notice to the parties to the appeal, move to dismiss the appeal, by written request filed with the Board. However, where a party to the appeal has filed substantive evidence in response to the contesting party's petition, a dismissal will only be granted if no objections are made by any party to the appeal.

(Source: Amended at 29 Ill. Reg. 21046, effective December 16, 2005)

Section 1910.64 Motion Practice – Service of Papers

a) Requests and motions for extensions of time in which to file evidence shall be made pursuant to Sections 1910.30(g), 1910.40(d) and 1910.60(f) of this Part for taxpayers, boards of review and intervenors, and shall not be made subject to this Section.

b) Provided that the Property Tax Appeal Board has transmitted the appeal to the board of review pursuant to Section 1910.40(a) of this Part and no earlier than 15 days after receipt of the appeal by the board of review, all other motions shall be in writing setting forth the arguments and authorities relied upon to permit the Board to make a decision with or without oral argument, at its discretion. The motion shall also state the name of the appellant and the docket number of the appeal as assigned by the Board.
c) A written motion shall be served at the same time upon all parties and filed with the Board's Springfield office. Motions shall be accompanied by proof of service upon all those required to be served, including the Board.

d) Within 21 days after service of a motion, a party may file a response to the motion. If no response is filed, the party shall be presumed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board in its decision on the motion. Within 14 days after service of a response to a motion, the moving party may file a reply.

e) The Board shall issue a written ruling on all motions, in the form of an order or letter, upon all parties at the same time.

f) All motions filed and served shall be on 8½" x 11" paper, except when such a requirement would unreasonably burden the filing party.

(Source: Added at 29 Ill. Reg. 21046, effective December 16, 2005)

Section 1910.68 Subpoenas

a) Issuance. Upon written request by a party to an appeal, Subpoenas shall be issued by the Chairman of the Board or his designee may issue a subpoena, as authorized by Section 16-175 of the Code, for good cause shown to compel the attendance of a witness or the production of books, records, correspondence, documents, papers or other evidence to facilitate the determination of the correct assessment of any parcel of real property. Requests for subpoenas may be made by any party. The request for the issuance of a subpoena to the property owner or taxpayer shall incorporate a showing by affidavit from a designated appraiser or county assessing official that such subpoena is reasonably required to obtain information that cannot be obtained elsewhere by the exercise of due diligence or through requests for information and is necessary to obtain information essential to derive an estimate of value of the real property under appeal. A request for a subpoena to compel the attendance of a witness shall contain the name, address and telephone number of the witness to be subpoenaed and the docket number of the Board appeal. A request for a subpoena duces tecum shall specify the books, records or other documents to be produced and the material facts to be proved by them. A request for a subpoena shall be served at the same time on the party from whom testimony or documents are sought, accompanied with proof of service, and filed with the Board's Springfield office. In ruling on a subpoena request, the Board shall consider the reasonableness of the demand and whether the requested
PROPERTY TAX APPEAL BOARD

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documents are relevant and necessary to derive an estimate of the value of the real property under appeal. Good cause shall exist when the documentation which is the subject of the subpoena is in the exclusive possession and control of another party to the appeal and is necessary to a full determination of the issues presented in the appeal before the Board, or when the attendance of a witness who is the subject of a subpoena is necessary to a full determination of the issues presented in the appeal before the Board.

b) Service and Contents. Subpoenas shall be served by any person lawfully authorized to serve a subpoena under the laws of this State. (See Section 16-175 of the Code.) Section 2-1101 of the Code of Civil Procedure [735 ILCS 5/2-1101]. The party requesting the subpoena shall be responsible for its service. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the name and address of the person initiating its issuance and the person to whom and the place, date, and the time at which it is returnable. The party requesting the subpoena shall serve the subpoena on any witness at least 7 days before the scheduled hearing date before the Board.

c) Response to Subpoena Request. Within 21 days after receipt of a request for a subpoena on any person or for documents, the subpoenaed party may file a response challenging the issuance of the subpoena, stating reasons in support of the relief. A copy of the response shall be served at the same time on the person requesting the subpoena, accompanied by proof of service, and on the Board. Witnesses attending any proceeding held by the Property Tax Appeal Board pursuant to any subpoena, shall be paid the same fees and mileage that are paid witnesses in the circuit courts of this State. (Section 16-175 of the Code) The cost of service and witness and mileage fees shall be paid by the party requesting the subpoena.

d) Fees. Witnesses attending any proceeding held by the Property Tax Appeal Board pursuant to any subpoena shall be paid the same fees and mileage that are paid witnesses in the circuit courts of this State. (Section 16-175 of the Code) The cost of service and witness and mileage fees shall be paid by the party requesting the subpoena. In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring enforcement of the subpoena.

e) Enforcement. Whenever any person knowingly fails or refuses to comply with a subpoena served in accordance with this Section, the party serving the subpoena or the Board shall petition the appropriate circuit court for an order enforcing the subpoena.
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f) Confidential Information. If a subpoena is issued for documents or other information under this Section, a party may petition the Board for an order protecting the confidentiality of any confidential information contained within those documents or other information. A request for a protective order under this subsection shall identify the confidential information and explain the reasons for the requested protective order. Upon finding that the requested documents or other information contain confidential information, the Board shall issue a protective order:

1) requiring the parties to maintain the confidentiality of documents or other information produced;

2) requiring that the documents be filed under seal; and

3) taking any other steps necessary to protect against disclosure of confidential information.

(Source: Amended at 29 Ill. Reg. 21046, effective December 16, 2005)

Section 1910.77 Withdrawals and Substitutions of Attorneys

a) An attorney of record who wishes to withdraw from representation must file a notice of withdrawal with the Clerk of the Board, together with proof of service and notice of filing on all parties in the appeal.

b) Any attorney who substitutes for an attorney of record must file a written appearance identifying the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from an appeal until a formal withdrawal is filed in accordance with subsection (a) of this Section.

(Source: Added at 29 Ill. Reg. 21046, effective December 16, 2005)

Section 1910.78 Consolidation of Appeals

Two or more appeals involving the same property may be consolidated on motion of any party or at the direction of the Property Tax Appeal Board when the cases involve common issues of law or fact, consolidation would not prejudice the rights of the parties, and consolidation would result in the efficient and expeditious resolution of the appeals.

(Source: Added at 29 Ill. Reg. 21046, effective December 16, 2005)
# NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Meat and Poultry Inspection Act

2) **Code Citation:** 8 Ill. Adm. Code 125

3) **Section Number:** 125.14  **Proposed Action:** Amend

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking:** The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 70 FR 70033

5) **Statutory Authority:** The Meat and Poultry Inspection Act [225 ILCS 650]

6) **Effective Date:** December 21, 2005

7) **A Complete Description of the Subjects and Issues Involved:** In order to maintain an "equal to" status with the federal meat and poultry products inspection program as required by the Federal Meat Inspection Act and the Poultry Products Inspection Act and in accordance with Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products inspection rules.

   The Food Safety and Inspection Service (FSIS) is adding Chile to the list of countries eligible to export meat and meat products to the United States. FSIS conducted a thorough review of Chile's meat processing inspection system, including an on-site review of its meat inspection system in operation. FSIS concluded that Chile's meat inspection laws, regulations and other written materials demonstrate that they establish requirements that are equivalent to the relevant requirements of the Federal Meat Inspection Act (FMIA) and its implementing regulations, and that Chile's implementation of meat processing standards and procedures is equivalent to that of the United States.

   Meat and meat products slaughtered and processed in certified Chilean establishments may be exported to the United States. All such products will be subject to re-inspection by FSIS inspectors at U.S. ports-of-entry as required by law.

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Date Filed with the Index Department:** December 16, 2005

10) A copy of the peremptory amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

11) These peremptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.

12) Are there any other proposed amendments pending on this Part? No

13) Statement of Statewide Policy Objectives: These peremptory amendments do not affect units of local government.

14) Information and questions regarding these peremptory amendments shall be directed to:

   Linda Rhodes
   Department of Agriculture
   State Fairgrounds, P.O. Box 19281
   Springfield IL 62794-9281
   Telephone: 217/785-5713
   Facsimile: 217/785-4505

   The full text of the Peremptory Amendment begins on the next page:
DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125  
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH  
MEAT AND/OR POULTRY INSPECTION

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SUBPART B: MEAT INSPECTION

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125.190 Ante-Mortem Inspection
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125.210 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220 Humane Slaughter of Animals
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125.250 Marking Products and Their Containers
125.260 Labeling, Marking and Containers
125.270 Entry into Official Establishment; Reinspection and Preparation of Product
125.280 Meat Definitions and Standards of Identity or Composition
125.290 Transportation
125.295 Imported Products (Repealed)
125.300 Special Services Relating to Meat and Other Products
125.305 Exotic Animal Inspection

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Section
125.310 Application of Inspection
125.320 Facilities for Inspection
125.330 Sanitation
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125.350 Ante-Mortem Inspection
125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370 Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380 Labeling and Containers
125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400 Definitions and Standards of Identity or Composition
125.410 Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

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effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992;
peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory
amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill.
Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective
September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993;
peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment
at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164,
effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory
amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg.
8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory
amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg.
14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26,
1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory
amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill.
Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May
8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory
amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19
Ill. Reg. 16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091,
effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996;
amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill.
Reg. 12634, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective
November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997;
peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment
at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1,
1997; peremptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; peremptory
amendment at 21 Ill. Reg. 12686, effective August 28, 1997; peremptory amendment at 21 Ill.
Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective
February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998;
peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at
22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January
1, 1999; peremptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; peremptory
amendment at 23 Ill. Reg. 10880, effective August 19, 1999; peremptory amendment at 24 Ill.
Reg. 3933, effective February 22, 2000; peremptory amendment at 24 Ill. Reg. 5699, effective
March 14, 2000; peremptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended
at 24 Ill. Reg. 7197, effective April 27, 2000; peremptory amendment at 24 Ill. Reg. 14074,
effective August 30, 2000; peremptory amendment at 24 Ill. Reg. 14451, effective September 15,
2000; peremptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; peremptory
amendment at 25 Ill. Reg. 12434, effective September 13, 2001; peremptory amendment at 25
Ill. Reg. 15444, effective November 19, 2001; peremptory amendment at 26 Ill. Reg. 980,
effective January 11, 2002; peremptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002;
DEPARTMENT OF AGRICULTURE

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SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR POULTRY INSPECTION

Section 125.143 Imported Products


(Source: Amended by peremptory rulemaking at 29 Ill. Reg. 21058, effective December 21, 2005)
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

1) Heading of the Part: Reports of Child Abuse and Neglect

2) Code Citation: 89 Ill. Adm. Code 300

3) Section Numbers: Peremptory Action:
   300.20 Amendment
   300.160 Amendment

4) Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this peremptory rulemaking:
   In July 2003, United States District Court Judge Rebecca Pallmeyer entered a preliminary injunction in the matter of *DuPuy v. Samuels*, 97 C 4199, requiring the implementation of certain expedited processes for child care workers who are being investigated for child abuse and/or neglect by the Department of Children and Family Services. The preliminary injunction order required that the Department provide child care workers with a one hour Administrator's Teleconference prior to a report being indicated for child abuse and/or neglect during which the child care worker could provide a Department Child Protection Administrator with information demonstrating why the case should not be indicated. The injunction further requires that the Department provide child care workers with the right to request an expedited appeal in which the Director would issue a final administrative decision within 35 days after the receipt of the request for an expungement appeal. The preliminary injunction order was appealed to the Seventh Circuit Court of Appeals. On October 14, 2004, in connection with the entry of the July 2003 preliminary injunction order, the court ordered the Director to pay plaintiffs $1,000,000 in interim attorneys fees. The Director appealed that decision to the Seventh Circuit Court of Appeals. On February 5, 2003, the Seventh Circuit Court of Appeals affirmed the entry of the preliminary injunction, but remanded the matter to the district court for entry of a remedial order to implement a definition of career entrants to be included in the definition of child care worker. On June 9, 2005, Judge Pallmeyer entered an order defining career entrants for inclusion in the definition of child care worker. The defendant then filed a motion for clarification and to alter or amend certain aspects of the June 9, 2005 order, including a portion of the order that addressed the career entrant definition. On August 4, 2005, the court entered an order granting in part and denying in part the defendant's Motion for Clarification and to Alter or Amend the Court's June 9, 2005 order. On September 9, 2005, the Seventh Circuit Court of Appeals issued an order vacating the award of interim attorneys fees as premature since the preliminary injunction order was defeasible by further proceedings. Plaintiffs have moved the court to order the Director to promulgate rules implementing the provisions of the July 2003 preliminary injunction order. On December 2, 2005, the court entered an order granting plaintiffs’ rule to show cause unless amended procedures...
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or rules are published on Westlaw by Friday, December 9, 2005 and also set a date for a bench trial on the merits of the case for July 24, 2006.

5) Statutory Authority: 325 ILCS 5

6) Effective Date: December 8, 2005

7) Date filed with the Index Department: December 8, 2005

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) A Complete Description of the Subjects and Issues Involved: The amendments set forth the processes for investigations involving child care workers and the expedited processes that the Department is required to provide in accordance with a preliminary injunction order.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objective: These amendments do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3 (b)].

12) Information and questions regarding these amendments shall be directed to:

    Jeff E. Osowski
    Office of Child and Family Policy
    Department of Children and Family Services
    406 East Monroe Street, Station #65D
    Springfield, Illinois 62701-1498

    217/524-1983
    TDD: 217/524-3715
    FAX: 217/557-0692
    E-Mail address: cfpolicy@idcfs.state.il.us

The full text of the Peremptory Amendments begins on the next page:
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 300
REPORTS OF CHILD ABUSE AND NEGLECT

Section
300.10 Purpose
300.20 Definitions
300.30 Reporting Child Abuse or Neglect to the Department
300.40 Content of Child Abuse or Neglect Reports
300.50 Transmittal of Child Abuse or Neglect Reports
300.60 Special Types of Reports (Recodified)
300.70 Referrals to the Local Law Enforcement Agency and State's Attorney
300.80 Delegation of the Investigation
300.90 Time Frames for the Investigation
300.100 Initial Investigation
300.110 The Formal Investigative Process
300.120 Taking Children into Temporary Protective Custody
300.130 Notices Whether Child Abuse or Neglect Occurred
300.140 Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150 Referral for Other Services
300.160 Special Types of Reports
300.170 Child Death Review Teams
300.APPENDIX A Acknowledgement of Mandated Reporter Status
300.APPENDIX B Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PEREMPTORY AMENDMENTS


Section 300.20 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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18 years of age;

commits or allows to be committed an act or acts of torture upon such child;

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Act" means the Abused and Neglected Child Reporting Act [325 ILCS 5].

"CANTS/SACWIS 8" or "C/S8" means the Department's document titled Notification of a Report of Suspected Child Abuse and/or Neglect. This document explains the Department's child abuse/neglect allegation investigation process.

"CANTS/SACWIS 9" or "C/S9" means the Department's document titled Notification of Intent to Indicate Child Care Worker for Report of Child Abuse and/or Neglect. This document is used to notify a person that the Department plans to indicate that person as a perpetrator of child abuse/neglect.

"CANTS/SACWIS 10" or "C/S10" means the Department's document titled Notice of Intent to Indicate a Child Care Worker for Report of Child Abuse and/or Neglect-Questions and Answers. This is an informational document explaining the impact of a determination of indicated child abuse/neglect and the appeal process.

"CANTS/SACWIS 11" or "C/S11" means the Department's document titled Notification of Indicated Decision in an Employment Related Report of Suspected Child Abuse and/or Neglect. This is the document by which the Department notifies a person that the Department has determined that there is credible evidence that he or she is responsible for the child abuse or neglect described in that document.

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated
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by reason of marriage or entry into a branch of the United States armed services.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child care worker" means any person who is employed to work directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department. Child care facilities, for purposes of this definition, include child care institutions; child welfare agencies; day care/night care centers; day care/night care homes; day care/night care group day care homes; group homes; hospitals or health care facilities; schools, including school teachers and administrators, but not tenured school teachers or administrators who have other disciplinary processes available to them; and before and after school programs, recreational programs and summer camps. "Child care worker" also means persons employed as full-time nannies. A child care worker may, at his or her discretion, be subject to this Part if alleged to be responsible for child abuse or neglect outside of his or her employment. "Child care worker" includes a person: currently employed as a child care worker; currently enrolled in an academic program that leads to a position as a child care worker; or who has applied for a license required for a child care worker position. A person will be considered to be "employed as a child care worker" under this Part if, at the time of the notice of the investigation, he or she: has applied for, or will apply within 180 days for, a position as a child care worker; is enrolled in, or will commence within 180 days, an academic program that leads to a position as a child care worker; or has applied for a license as a child care worker.

"Child Protective Service Unit" (CPS) means certain specialized State employees of the Department assigned by the Director or his or her designee to perform the duties and responsibilities described as provided under this Part. CPS staff is also referred to as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender
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or voluntary placement agreement with the Department.

"CPSW" means a Child Protective Service Worker.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department" or "DCFS" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Those activities shall include: an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department
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shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement. [325 ILCS 5/3]

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 must be met.

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial oral report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.
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"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code. [325 ILCS 5/3]

"Perpetrator" means a person who, as a result of investigation, has been
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determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"State Central Registry" is the record of child abuse and/or neglect reports maintained by the Department pursuant to the Act.

"Subject of a report" means any child reported to the child abuse/neglect State
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Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Peremptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005)

Section 300.160 Special Types of Reports

Six types of child abuse or neglect reports shall receive special attention as specified in subsections (a) through (f):

a) Incident Involving the Death of a Child

1) The Department shall immediately contact the appropriate medical examiner or coroner, the local law enforcement agency, and the State's Attorney when there is reasonable cause to suspect that a child has died as a result of abuse or neglect. The child protective investigator assigned to the investigation shall require a copy of the completed autopsy report from the coroner or medical examiner.

2) The Department shall refer to the child death review teams described in Section 300.170 of this Part the death of any child who is:

A) a child for whom the Department of Children and Family Services is legally responsible;

B) a child being served in an open service case either by the Department or through purchase of service contracts with private
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agencies;

C) the subject of a pending child abuse or neglect investigation;

D) a child who was the subject of an abuse or neglect investigation at any time during the 12 months immediately preceding the child's death; or

E) any other child whose death is reported to the State central register as a result of alleged child abuse or neglect if the report is subsequently indicated.

3) The Department shall cooperate with the work of the Office of the Inspector General and the child death review teams by:

A) providing to the team all records and case information relevant to the review, including records and information concerning all available previous reports or investigations of suspected child abuse or neglect. Other records and case information relevant to the review include:

i) birth certificates;

ii) all relevant medical and mental health records;

iii) records of law enforcement agency investigations;

iv) records of coroner or medical examiner investigations;

v) records of the Department of Corrections concerning a person's parole;

vi) records of a probation and court services department, and records of a social service agency that provided services to the child or the child's family;

B) assisting the Office of the Inspector General and the team in its review of the child's death;

C) reporting on any follow-up interventions suggested by the Office
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of the Inspector General or the team;

D) providing follow-up on death cases where circumstances surrounding the death suggest other children may be at risk. Follow-up may include, but is not limited to:

i) further investigation;

ii) risk assessment;

iii) grief counseling for other children in the family;

iv) referrals for other services as appropriate;

E) providing information and consultation regarding the juvenile court process and the availability of the court to protect or intervene with surviving siblings; and

F) assisting with arrangements for the date, time, and location of team meetings.

4) The Department shall prepare individual death review reports and issue an annual cumulative report to the Governor and General Assembly incorporating the data, appropriate findings and recommendations from the individual reports.

A) Child death review reports shall be completed no later than six months after the date of the death of the child. Upon completion of each report the Department shall notify the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, and the members of the Senate and the House of Representatives in whose district the child's death occurred. Reports shall address:

i) cause of death;

ii) identification of child protective or other services provided or actions taken regarding the child and his or her family;
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iii) extraordinary or pertinent information concerning the circumstances of the child's death;

iv) whether the child or the child's family received assistance, care, or other social services prior to the child's death;

v) actions or further investigation undertaken by the Department since the death of the child; and

vi) recommendations concerning child protective, child welfare, or prevention issues.

B) Reports shall not contain information identifying the name of the deceased child, his or her siblings, parents or other persons legally responsible for the child, or any other members of the child's household.

C) Reports concerning the death of a child and the cumulative reports shall be made available to the public after completion or submittal.

i) A child-specific request for a report may be honored by the Department when the Department determines that disclosure of the information is not contrary to the best interest of the deceased child's siblings or other children in the household.

ii) The Department shall not release or disclose to the public the substance or content of any psychological, psychiatric, therapeutic, clinical, or medical report pertaining to the deceased child or the child's family except as it may apply directly to the cause of the child's death.

D) The Department may request and shall receive in a timely fashion from departments, boards, bureaus, or other agencies of the State, or any of its political subdivisions, or any duly authorized agency, or any other agency that provided assistance, care or services to the deceased child, any information they are authorized to provide to enable the Department to prepare the report.

b) Reports Involving Child Care Facilities
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Reports alleging abuse or neglect of children in child care facilities shall be made and received in the same manner as other reports. The appropriate supervisor or administrator at the facility shall be notified once the formal investigation has been commenced. Department licensing staff will be notified of all reports on licensed facilities upon commencement of the formal investigation. The Department shall advise the supervisor or administrator of their responsibility to take reasonable action necessary, based on all relevant circumstances and the allegations being investigated, to insure that the alleged perpetrator of the reported abuse or neglect is restricted from contact with children in the facility during the course of the formal investigation.

c) Reports Involving Child Care Workers

1) DCFS investigators, their supervisors and designated legal staff will be sent notification via e-mail within 24 hours after receipt of reports that may pertain to child care workers. The notification will advise DCFS staff to determine, during the initial investigation, if the alleged perpetrator is a child care worker. Investigators will provide the alleged perpetrator the SACWIS/CANTS 8 forms at the time of the initial interview and explain the information contained in these forms. The Child Protection Service Worker (CPSW) shall also explain that persons who are actively engaged in the job seeking process for a child care position; who are currently enrolled or will, within 180 days, be enrolled in an academic program that leads to a position as a child care worker; who are currently applying for a license for a child care worker position; or who are investigated in a capacity that is not employment related but whose employment or licensure may be affected by an indicated finding must identify themselves to the investigator. Child care workers who are the subject of a child abuse and/or neglect report (alleged perpetrator) shall be provided the following information.

A) Administrator's Teleconference

A one hour administrator's teleconference is held after the investigator, the investigator's supervisor and Child Protection Manager have concurred with the decision to recommend that the case be indicated. The administrator's teleconference provides the alleged perpetrator the opportunity to present documentary evidence or other information that supports his or her position and provides information to assist the Department in making the most accurate decision regarding the allegations.
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B) Expedited Administrative Appeal
In the event that the allegation of child abuse and/or neglect is indicated, an expedited administrative appeal provides the alleged perpetrator with a final administrative decision within 35 days after receipt of his or her request for an appeal, absent any continuances requested by the child care worker.

C) Reports Not Related to Employment
Alleged perpetrators who are named in reports of abuse and/or neglect that are not related to their child care employment may choose to participate in an expedited process by informing the investigator that they would like the investigation treated as an employment related investigation subject to the procedures of this subsection (c).

2) Recommendation to Indicate a Report of Abuse or Neglect

A) The investigator must evaluate every piece of information and evidence obtained during a child abuse and/or neglect investigation, including both inculpatory and exculpatory evidence. Inculpatory evidence is evidence showing or tending to show a person's involvement in an act or tending to establish guilt. In child abuse and/or neglect investigations, inculpatory evidence means evidence showing or tending to show that a person abused or neglected a child. Exculpatory evidence is evidence tending to establish a person's innocence or evidence that tends to justify or clear a person from alleged fault or guilt. In child abuse and/or neglect investigations, exculpatory evidence means evidence showing or tending to show that a person did not abuse and/or neglect a child.

B) The investigator shall also complete the investigative summary, including all of the evidence that the investigator has gathered demonstrating that an incident of child abuse and/or neglect has:

i) occurred and the person recommended to be indicated is the person responsible for that abuse and/or neglect.
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ii) not occurred or that the person recommended to be indicated is not responsible for the child abuse and/or neglect.

C) The investigator shall print the investigative summary for use in the administrator's teleconference. All information identifying the reporter and/or source and other persons with information shall be redacted. The intake narrative, reporter/source/other person with information section, and the protective custody section shall also be redacted.

D) The investigator shall schedule an in-person meeting with the alleged perpetrator prior to the administrator's teleconference to inform him or her of the decision to recommend that the case be indicated, and to provide the alleged perpetrator with the SACWIS/CANTS 9, the redacted investigative summary and the SACWIS/CANTS 10. The investigator shall complete the final page of S/C10. The investigator shall complete the final page of the S/C9 by including the State Central Register number and shall ask the alleged perpetrator to sign the acknowledgment of receipt. If the alleged perpetrator refuses to sign the acknowledgement form, the investigator shall note that refusal on the form and in a SACWIS case note. The investigator shall also use the in-person meeting to review the information concerning the administrator's teleconference and explain the right to request an expedited appeal under subsection (c)(5)(A) if the case is indicated.

E) If the investigator has made two unsuccessful attempts to meet in person with the alleged perpetrator to deliver the S/C9, redacted investigative summary and S/C10, the investigator shall work with the Child Protection Administrator (CPA) to obtain a new date and time for the administrator's teleconference within the next two weeks. The investigator shall send the completed S/C9, S/C10 and redacted investigative summary to the alleged perpetrator by certified mail. The investigator shall document in a SACWIS case note all attempts to meet in person with the alleged perpetrator and the fact that the S/C9 and 10 and the redacted investigative summary were sent to the alleged perpetrator by certified mail.

3) Scheduling an Administrator's Conference
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A) After the approval to indicate the report is given to the investigator, an administrator's teleconference shall be scheduled in accordance with the appropriate CPA's schedule. Administrator's teleconferences should be scheduled on Wednesdays and at the earliest possible date, but can be scheduled on other days to accommodate the schedule of the administrator or the alleged perpetrator and his or her representative.

B) The investigator shall enter the date and time for the administrator's teleconference on the S/C9. The CPSW shall also enter information regarding the children reported to be abused and/or neglected; the location where the reported abuse and/or neglect is alleged to have occurred; a description of the allegations for which the Department intends to find the person responsible, including the name of the allegation, the allegation number and the number of years that the allegation recommended to be indicated will remain on the State Central Register.

C) Prior to the administrator's teleconference, the investigator shall forward to the CPA copies of any hard copy documents obtained during the course of the child abuse and/or neglect investigation. On the scheduled date and time, the alleged perpetrator shall contact the CPA at the number contained on the S/C9. Field staff is encouraged to attend the administrator's teleconference.

D) It is important that the investigative summary that is provided to the alleged perpetrator in advance of the administrator's teleconference contain a full and detailed explanation of the information and evidence that has been gathered and provide a rationale as to why the case is being recommended to be indicated. Documentation shall be listed in the investigative summary of all of the evidence that has been gathered during the investigation that suggests an incident did occur and that the alleged perpetrator is responsible and/or the evidence that suggests an incident did not occur or that the alleged perpetrator is not responsible.

E) The administrator's teleconference is not a hearing and the alleged perpetrator cannot present the testimony of witnesses. The alleged
perpetrator can provide other information and documentary evidence.

4) Administrator's Teleconference

A) The CPA shall convene the administrator's teleconference on the date and time listed in the S/C9. When the alleged perpetrator and/or his or her representative calls in, the CPA shall explain the purpose of the teleconference, ask all persons to identify themselves, and allow the alleged perpetrator and/or his or her representative to provide the CPA with any information that will help the Department make the most accurate decision regarding the current allegations. The CPA shall provide the alleged perpetrator and/or his or her representative the ability to fax any documentary evidence that the alleged perpetrator believes is necessary for the Department to make the most accurate decision regarding the allegations of child abuse and/or neglect.

B) The CPA shall also document the persons who attended the teleconference, all information provided by the alleged perpetrator and any documentary evidence received from the alleged perpetrator on the Administrator's Teleconference Form. The CPA shall send a copy of the form to the investigator who shall ensure that the form is placed in the investigative file maintained in the case file.

C) If the CPA sends the case back for further investigation, he or she shall provide the investigator with instructions regarding further investigatory steps to be taken. The CPA shall also give the investigator a due date by which the additional investigatory steps are to be completed. When the CPA has been provided with the additional information, he or she shall find the allegation to be indicated or unfounded.

D) The CPA shall send a letter to the alleged perpetrator advising him or her of the Department's decision that the allegation of child abuse and/or neglect is unfounded or is indicated. This information shall also be provided to the responsible Child Protection Manager.
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E) For those cases in which the recommendation to indicate has been upheld by the CPA, the investigator shall confirm that the case has been closed in SACWIS and the date that the final finding letter was sent from SACWIS, and shall complete the S/C11. The investigator shall then mail the S/C11 to the alleged perpetrator. This letter will be sent in addition to the formal notification letter from the State Central Register.

F) In the event that the alleged perpetrator does not call into the administrator's teleconference at the scheduled time, the CPA shall wait a minimum of one-half hour for the alleged perpetrator and/or his or her representative to call. After waiting one-half hour for the alleged perpetrator to call, the CPA shall review the investigation and make a determination to find the allegation to be indicated or unfounded or to return the case for further investigation. The CPA shall indicate in the administrator's teleconference form that the alleged perpetrator failed to call and shall include the reasons for his or her decision that the alleged violation is indicated or unfounded or the reasons for his or her decision to return the case for further investigation.

5) Administrative Appeals

A) Expedited Appeals

Child care workers have the right to request an expedited appeal of an indicated finding through the Department's Administrative Hearings Unit. An expedited appeal requires that the Director issue a final administrative decision within 35 days after the date of receipt of the child care worker's appeal. The 35 day time period excludes any time attributable to an appellant's request for a continuance or to any continuance or date set by the agreement of the parties. An appellant must specifically request an expedited appeal in writing at the time of the initial request for appeal filed with the Administrative Hearings Unit. Any written request for an appeal that is received by the Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

B) Regular Appeals
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If the appellant does not request an expedited appeal, but does appeal the indicated finding, he or she is entitled to have a final administrative decision within 90 days after the date of receipt of the appeal. The 90 day time period excludes any time attributable to an appellant's request for a continuance or to any continuance or date set by the agreement of the parties. Any written request for an appeal that is received by the Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

de) Reports Involving Schools

When a report is received alleging abuse or neglect of a child by a school employee known to the child through the employee's official or professional capacity, the Department will take the following actions:

1) To the extent possible, conduct an investigation involving a teacher at a time when the teacher is not scheduled to conduct classes.

2) Conduct investigations involving other school employees in such a way as to minimize disruption of the school day.

3) Make reasonable efforts to conduct the initial investigation in coordination with the employee's supervisor, if the report does not involve allegations of sexual abuse or extreme physical abuse.

4) When a report of alleged abuse involving a teacher occurred in the course of the teacher's efforts to maintain safety for other students, determine whether the teacher used reasonable force in accordance with rules established by the local board of education as authorized by the School Code [105 ILCS 5].

5) Advise school officials that they may, in accordance with the School Code, withhold from any person, information on the whereabouts of any child removed from school premises, when the child has been taken into protective custody as a victim of suspected child abuse and that they may direct persons seeking information to the Department or to the local law enforcement agency.

6) Advise school employees accused of child abuse or neglect of their due process rights, of the steps in the investigative process, and that they may
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have their superior, association or union representative, and attorney present at any interview or meeting at which the school employee is present.

7) Prior to indicating a report involving a school employee, the Department will take the following steps:

A) send the employee a copy of the investigative file with identifying information deleted. Any materials and evidence submitted to the Department subsequent to sending the employee a copy of the investigatory file shall be sent to the employee upon receipt by the Department;

B) allow the school employee, prior to the final finding, an opportunity to:

i) present evidence to the contrary regarding the report; and

ii) request an informal conference at which the employee may present the additional evidence and/or, subject to the discretion of the Department, confront the accuser, provided the accuser is 14 years of age or older.

8) If an informal conference is requested, the Department shall schedule the conference after receipt by the employee of the copy of the investigatory file, and shall:

A) conduct the conference in a neutral setting away from the school grounds during hours when school is not in session, unless requested otherwise by the school employee;

B) notify the following persons of the conference, if the purpose of the conference is merely to submit additional evidence:

i) the school employee and representative;

ii) Department representatives including the investigative worker;

C) notify the following additional persons if the employee wishes to
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confront the accuser and the Department has approved such a confrontation:

i) the accuser, provided the accuser is 14 years of age or older, and the accuser's parents, guardian and/or representative of a Child Advocacy Center, when involved in the case. (The accuser is the person who has made the allegation of abuse or neglect. The accuser is not necessarily the same as the reporter.)

ii) representatives of the State's Attorney's Office or law enforcement agency in the county where the alleged incident occurred, when the State's Attorney's Office or law enforcement agency are currently involved in the investigation and/or are considering filing criminal charges in the case.

iii) persons identified by the employee who have information relevant to the report, who will be included in only those portions of the conference pertaining to their testimony;

D) following the conference, allow the school employee at least five calendar days to present additional evidence to the Department;

E) make a final determination with regard to the report in accordance with Section 300.110 of this Part.

9) No such conference will be allowed when there is a criminal investigation pending and the Department has been advised by law enforcement authorities or the State's Attorney not to allow a face-to-face confrontation between the accused and the accuser.

10) When determining whether to allow the school employee to confront an accuser who is 14 years or older, the Department shall take the following into consideration:

A) whether, due to the nature of the allegation, a confrontation with the accused school employee would cause excessive trauma to the child, and
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B) whether the child has a documented history of mental, emotional or developmental problems.

11) The Department shall inform the child and the child's parents in writing prior to the conference and orally at the conference that:

A) they may decline to attend or proceed with the conference, and

B) if they do attend, they may refuse to answer any questions posed, and

C) if the child attends, he or she has the right to have an attorney or other person representing his or her interests present at the conference, in addition to his or her parents or guardian.

12) Child's or parent's refusal to attend a conference or to answer questions shall not be grounds for unfounding an otherwise credible report.

13) All proceedings shall be confidential and no statement, summary, transcript, recording or other investigative product shall be released except on written order of the court, or in compliance with the confidentiality provisions of the Abused and Neglected Child Reporting Act. Violations of these provisions is a Class A misdemeanor (see 325 ILCS 5/11).

14) Whether or not an informal conference has been conducted, the school employee retains all other appeal rights provided in the Abused and Neglected Child Reporting Act [325 ILCS 5/7.16] and 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings).

e) Reports Involving State Facilities and State Employees Acting in Their Official Capacity

When reports are received alleging abuse or neglect of children by any State of Illinois Department or any State employee acting in his or her official capacity, the report-taker will immediately notify the Director of the Department or designee. The Director or designee will transmit the details of the report to the Division of Internal Investigation, Illinois Department of State Police.

f) Reports Involving Juvenile Alleged Perpetrators

Reports of abuse or neglect in which a juvenile (anyone under 18 years of age) has been named as the alleged perpetrator shall be handled as follows:
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1) Juvenile Parents of Alleged Victims

All calls received by State Central Register (SCR) that meet the Department's criteria to be accepted for investigation, and in which the alleged perpetrator is a juvenile who is also the parent of the alleged victim, will be investigated and maintained on the State Central Register without regard to the age of the alleged perpetrator.

2) All Other Children Under the Age of 18

 Calls received at SCR alleging that children under the age of 18 are responsible for abuse or neglect will be accepted for investigation. SCR will consider situations in which children under the age of 18 are allegedly responsible for abuse or neglect to determine whether there is reasonable cause to suspect that the maltreatment is the result of blatant disregard on the part of an adult who is an eligible perpetrator. If so, a report will be accepted alleging inadequate supervision with the adult as the alleged perpetrator.

3) Indicated Findings

A) If after an investigation, reports are indicated and children under the age of 10 are determined to be the perpetrator, the child will not be named as the perpetrator for purposes of retaining the report in the State Central Register.

B) If, after an investigation, reports are indicated and children between the ages of 10 and 18 are determined to be the perpetrator, reports that carry a five year retention schedule will be expunged from the State Central Register after five years or at the perpetrator's 21st birthday, whichever is sooner.

C) In the event that the same child between the ages of 10 and 18 is determined to be an indicated perpetrator of another report that requires a five year retention schedule, the information concerning the previous reports and the subsequent report will be maintained at the State Central Register for a period of five years from the date of the subsequent report or at the perpetrator's 21st birthday, whichever is sooner.
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D) Reports that carry a 20 or 50 year retention schedule will be expunged from the State Central Register after five years or at the perpetrator's 23rd birthday, whichever is sooner.

E) In the event that the same child between the ages of 10 and 18 is subsequently determined to be an indicated perpetrator of an allegation carrying a 20 or 50 year retention schedule, the information concerning the previous reports and the subsequent report will be maintained at the State Central Register for a period of five years from the date of the subsequent report or at the perpetrator's 23rd birthday, whichever is sooner.

(Source: Peremptory amendment at 29 Ill. Reg. 21065, effective December 8, 2005)
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1) **Heading of the Part:** Appeals of Child Abuse and Neglect Investigation Findings

2) **Code Citation:** 89 Ill. Adm. Code 336

3) **Section Numbers:**

   - 336.10     Amendment
   - 336.85     New Section
   - 336.220    Amendment

4) **Reference to the specific State or Federal Court Order, Federal Rule or Statute which requires this peremptory rulemaking:** In July 2003, United States District Court Judge Rebecca Pallmeyer entered a preliminary injunction in the matter of *DuPuy v. Samuels*, 97 C 4199, requiring the implementation of certain expedited processes for child care workers who are being investigated for child abuse and/or neglect by the Department of Children and Family Services. The preliminary injunction order required that the Department provide child care workers with a one hour Administrator’s Teleconference prior to a report being indicated for child abuse and/or neglect during which the child care worker could provide a Department Child Protection Administrator with information demonstrating why the case should not be indicated. The injunction further requires that the Department provide child care workers with the right to request an expedited appeal in which the Director would issue a final administrative decision within 35 days after the receipt of the request for an expungement appeal. The preliminary injunction order was appealed to the Seventh Circuit Court of Appeals. On October 14, 2004, in connection with the entry of the July 2003 preliminary injunction order, the court ordered the Director to pay plaintiffs $1,000,000 in interim attorneys fees. The Director appealed that decision to the Seventh Circuit Court of Appeals. On February 5, 2003, the Seventh Circuit Court of Appeals affirmed the entry of the preliminary injunction, but remanded the matter to the district court for entry of a remedial order to implement a definition of career entrants to be included in the definition of child care worker. On June 9, 2005, Judge Pallmeyer entered an order defining career entrants for inclusion in the definition of child care worker. The defendant then filed a motion for clarification and to alter or amend certain aspects of the June 9, 2005 order, including a portion of the order that addressed the career entrant definition. On August 4, 2005, the court entered an order granting in part and denying in part the defendant’s Motion for Clarification and to Alter or Amend the Court’s June 9, 2005 order. On September 9, 2005, the Seventh Circuit Court of Appeals issued an order vacating the award of interim attorneys fees as premature since the preliminary injunction order was defeasible by further proceedings. Plaintiffs have moved the court to order the Director to promulgate rules implementing the provisions of the July 2003 preliminary injunction order. On December 2, 2005, the court entered an order granting plaintiffs’ rule to show cause unless amended procedures
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or rules are published on Westlaw by Friday, December 9, 2005 and also set a date for a bench trial on the merits of the case for July 24, 2006.

5) Statutory Authority: 20 ILCS 505/5

6) Effective Date: December 8, 2005

7) Date filed with the Index Department: December 8, 2005

8) A copy of the peremptory amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) A Complete Description of the Subjects and Issues Involved: The amendments set forth the processes for investigations involving child care workers and the expedited processes that the Department is required to provide in accordance with a preliminary injunction order.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objective: These amendments do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3 (b)].

12) Information and questions regarding these peremptory amendments shall be directed to:

   Jeff E. Osowski
   Office of Child and Family Policy
   Department of Children and Family Services
   406 East Monroe Street, Station #65D
   Springfield, Illinois 62701-1498

   217/524-1983
   TDD: 217/524-3715
   FAX: 217/557-0692
   E-Mail address: cfpolicy@idcfs.state.il.us

The full text of the Peremptory Amendments begins on the next page.
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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 336
APPEAL OF CHILD ABUSE AND NEGLECT
INVESTIGATION FINDINGS

Section
336.10 Purpose
336.20 Definitions
336.30 Notice of Department Decision
336.40 Notice of the Right to Appeal and Receive an Administrative Hearing
336.50 Who May Appeal
336.60 What May Be Appealed
336.70 Appearance/Authorization to Represent
336.80 How to Request a Hearing/Sufficiency
336.85 Expedited Appeals
336.90 Confidentiality During the Expungement Process
336.100 Rights and Responsibilities in Administrative Hearings
336.110 The Administrative Hearing and Pre-Hearing Conference
336.120 The Administrative Law Judge
336.130 Consolidating and Severing Issues and Parties
336.140 Exchange of Information
336.150 Continuances
336.160 Attendance of Witnesses
336.170 Testimony by Telephone
336.180 Interpreters
336.190 Grounds for Dismissal
336.200 Abandonment of Appeal/Default
336.210 Record of an Administrative Hearing
336.220 Final Administrative Decision
336.230 Severability of This Part

AUTHORITY: Authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; implementing Section 7.16 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.16].

SOURCE: Adopted at 17 Ill. Reg. 1026, effective January 15, 1993; amended at 19 Ill. Reg. 3465, effective March 1, 1995; emergency amendment at 20 Ill. Reg. 4817, effective March 15,
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Section 336.20 Definitions

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child; or

inflicts excessive corporal punishment, or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Administrative hearing" in the context of this Part means a formal review of a decision made by a Department child protection investigator.
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"Administrative Law Judge" means a licensed attorney who is appointed by the Director of the Department and is responsible for conducting the administrative hearing, including pre-hearings, and issuing a recommended decision.

"Amend" as used in this Part means changing an allegation contained in an indicated report of child abuse or neglect or changing identifying information regarding the subjects of an indicated child abuse or neglect report.

"Appeal process" means the prehearing conference and formal administrative hearing.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is requested.

"Authorized representative" means a person, including an attorney, authorized in writing by a party to assist in the appeals process. If the party is unable to reduce such authorization to writing, the Department, on request, shall assist the party in doing so.

"Chief Administrative Law Judge" means the person who is responsible for the supervision of the Administrative Law Judges and the coordination of the administrative hearing appeal process.

"Child care worker" means any person who works directly with children and any person who is an owner/operator of a child care facility, regardless of whether the facility is licensed by the Department.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services. [325 ILCS 5/31]

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Date of action" means the date on which any Department action becomes effective.

"Day", for purposes of computation of time, means calendar day.
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"Department" means the Illinois Department of Children and Family Services.

"Department's representative" means the person who is responsible for presenting the Department's case.

"Discovery," for purposes of this Part, means the rights of any party to request and have access to, in advance of the pre-hearing, any documents and list of witnesses in the possession of any other party.

"Expedited appeal" means an appeal that may be requested only by a child care worker who is the subject of a Department determination of indicated child abuse and/or neglect. Expedited appeals require that the Director issue a final administrative decision within 35 days after the date of receipt by the Department's Administrative Hearings Unit of a written request for an expedited appeal. The 35 day time period excludes any time attributable to an appellant's request for a continuance or to any continuance or date set by the agreement of the parties. The appellant must specifically request an expedited appeal in writing at the time of the initial request for appeal filed with the Unit. Any request for an appeal that is received by the Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

"Expunge", as used in this Part, means removing identifying information regarding the subjects of an indicated child abuse or neglect report from the computer file of the State Central Register and from paper records kept by the Department.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case, which affects the legal rights, duties or privileges of participants and which may be further appealed to the circuit court under the Administrative Review Law.

"Indicated report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Individual legally acting on a person's behalf" means an individual who has been appointed by a court of competent jurisdiction to act on behalf of a person when the person is incompetent, incapacitated, or otherwise determined unable to represent himself or herself.
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"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care denied solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code. [325 ILCS 5/3]

"Parents" means the child's legal parents whose rights have not been terminated.
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"Parties" means the Department and those persons who have appealed the final decisions made by the Department. No person may join in an appeal unless that person would have standing to appeal the decisions himself or herself.

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect. [325 ILCS 5/3]

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, operator, supervisor, or employee of a public or private residential agency or institution, or public or private profit or not-for-profit child care facility, or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Preponderance of the evidence" means the greater weight of the evidence which renders a fact more likely than not.

"Regular appeal" means an appeal that may be requested by a child care worker or any other person for whom the Department has determined that an allegation of child abuse and/or neglect is indicated. Regular appeals require that the Director issue a final administrative decision within 90 days after receipt by the Department's Administrative Hearings Unit of a written request for the appeal. The 90 day time period excludes any time attributable to an appellant's request for a continuance or to any continuance or date set by the agreement of the parties. Any written request for an appeal that is received by the Unit that does not expressly request an expedited appeal will automatically be treated as a regular appeal.

"Request for an appeal" means the written request by an appellant for an administrative hearing to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or being maintained in a manner inconsistent with the Abused and Neglected Child Reporting Act. If the appellant is unable to request an appeal in writing, the Agency shall help the appellant put the request in writing.
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"State Central Register" means the specialized Department unit that receives and transmits reports of alleged child abuse and neglect.

"Stipulation" means an agreement by the parties that certain facts are true and can be introduced into evidence without further proof.

"Subject of report" means any child reported to the State Central Register, and his or her parent, personal guardian, or other person responsible for the child's welfare, who is also named in the report. [325 ILCS 5/3]

"Timely written notice" means a notice which complies with the requirements of Section 336.80(b) of this part.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists. [325 ILCS 5/3]

"Unknown perpetrator" means a person who may have caused specific abuse or neglect, but has not been identified or made known to the authorities.

(Source: Peremptory amendment at 29 Ill. Reg. 21091, effective December 8, 2005)

Section 336.85 Expedited Appeals

a) Child care workers who are the subject of a Department finding that an allegation of child abuse and/or neglect is indicated may request from the Department's Administrative Hearings Unit an expedited appeal. The written request for an appeal must specifically state that an expedited appeal is being requested. The Department may request that an appellant requesting an expedited appeal provide documentation to confirm his or her status as a child care worker.

b) Within seven days after the Unit's receipt of the request for an expedited appeal, the Department will set pre-hearing and hearing dates and send the appellant and his or her representative a notice by certified mail of the dates, along with a copy of the investigative file.

c) The pre-hearing date will be set within 14 days after receipt of the request for expedited appeal. The parties should be prepared to have the Department issue any subpoenas after the conclusion of the pre-hearing conference.
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d) The hearing date will be set within seven days after the pre-hearing conference and within 21 days after receipt of the request for expedited appeal. The Department will set aside two consecutive days for the administrative hearing.

e) The Administrative Law Judge will provide the Director with a recommended decision within seven calendar days or five working days after completion of the expedited appeal hearing.

f) The Director will issue a final administrative decision within seven days after receipt of the Administrative Law Judge's recommended decision and the Director's decision will be sent to the appellant and his or her representative by certified mail within 35 days after the date on which the expedited appeal request was received.

(Source: Added by peremptory amendment at 29 Ill. Reg. 21091, effective December 8, 2005)

Section 336.220 Final Administrative Decision

a) Making the Final Administrative Decision

1) The Director of the Department shall receive the Administrative Law Judge's recommended decision within 35 days after receipt of a timely and sufficient request for an expedited appeal, unless extended by action of the appellant or a stay pending a final judicial decision of a criminal or juvenile court proceeding based upon the same set of facts. Within the same 35 day time period, the Director shall receive and accept, reject, amend or return to the Administrative Hearings Unit for further proceedings the Administrative Law Judge's recommendation with respect to the expedited appeal. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall insure compliance with the decision.

2) The Director of the Department shall receive the Administrative Law Judge's recommended decision 90 days after receipt of a timely and sufficient request for an appeal, unless extended by action of the appellant or a stay pending a final judicial decision of a criminal or juvenile court proceeding based upon the same set of facts. Within the same 90 day period, the Director shall receive and accept, reject, amend or return to the Administrative Hearings Unit for further proceedings the Administrative
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Law Judge's recommendation. The 90 day time period may be extended by the actions of the appellant. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for insuring compliance with the decision.

b) Notice of the Availability of Judicial Review
The Department shall include a notice to appellants as part of the final administrative decision. This notice shall include the name of the person responsible for compliance, if applicable, and shall advise the appellants that, under the provisions of the Administrative Review Law [735 ILCS 5/Art. III], they may seek judicial review of the Department's decision if it is unfavorable to them, within the statutory time frame.

c) Who Receives Copies of the Final Administrative Decision
The appellant or authorized representative, the Department child protective investigation unit, the Department's representative, the Department's Office of Legal Services, the Administrative Law Judge, the Chief Administrative Law Judge, and the State Central Register shall receive a copy of the final administrative decision.

d) Notifying Others of the Decision

1) The following persons shall receive a notice of the final administrative decision from the State Central Register:

   A) the Illinois Department of Professional Regulation, district, regional and private school superintendents and the State Board of Education when they have been notified that an appeal has been filed in accordance with 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect), Section 300.140;

   B) administrators of child care facilities and Department licensing staff when the appellant is an employee of a child care facility; and

   C) supervisors or administrators notified in accordance with 89 Ill. Adm. Code 300.100(i).

2) The following persons shall receive a notice of the final administrative
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decision, if the decision amends, expunges or removes any record made under Section 7.17 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.17]:

A) parents or personal guardians of the child victims if they are not the same as the appellant;

B) the mandated reporter who originally made the report of child abuse or neglect;

C) the juvenile court judge and guardian ad litem (when a State ward is involved).

(Source: Peremptory amendment at 29 Ill. Reg. 21091, effective December 8, 2005)
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA


1) Rulemaking: R04-09

   A) Description: 2 Ill. Adm. Code 2175 contains the Board's public information rules and organizational information, as required under Section 1-15 of the Administrative Procedure Act [5 ILCS 100/5-15] and Section 4 of the Freedom of Information Act [5 ILCS 140/4]. Among the information contained in Part 2175 is a listing of the Board's offices, including their addresses and telephone numbers. The Board has changed the location of some of the satellite offices and needs to amend Part 2175 to reflect the changes of address and telephone number. In addition, further review of Part 2175 could indicate more amendments to this Part.

   B) Statutory authority: Implementing and authorized by Section 1-15 of the Administrative Procedure Act [5 ILCS 100/5-15] and Section 4 of the Freedom of Information Act [5 ILCS 140/4].

   C) Scheduled meeting/hearing dates: Public hearings are not required to amend 2 Ill. Adm. Code 2175. However, the Board would conduct such hearings if the level of public interest indicates that public hearings are desirable.

   D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the Illinois Register in the Spring or Summer of 2006.

   E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding or which seeks to contact the Board for any reason, including to inspect and copy Board records. Proceedings before the Board include enforcement actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, pollution control facility siting appeals, and any other actions provided by law. At present, it appears that any amendments would have an insignificant impact on affected entities.
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently-anticipated proceedings would affect the text of Part 2175.

b) Parts (Headings and Code Citations):
Enforcement (35 Ill. Adm. Code 103)
Regulatory Relief Mechanisms (35 Ill. Adm. Code 104)
Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107)
Tax Certifications (35 Ill. Adm. Code 125)
Identification and Protection of Trade Secrets and Other Non-disclosable Information (35 Ill. Adm. Code 130)

1) Rulemaking: R04-08
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

A) Description: The Board is preparing a rulemaking to amend its procedural regulations to allow for electronic filings in all Board proceedings through the Board's new "Clerk's Office On-Line" (COOL). The Board's new filing procedure will allow for electronic filings and payment of filing fees.

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

C) Scheduled meeting/hearing dates: The Board has held two hearings in this rulemaking.

D) Date agency anticipates First Notice: The Board anticipates First Notice publication of the proposed rules in the Illinois Register in the Spring or Summer of 2006

E) Effect on small business, small municipalities, or not-for-profit corporation: There may be an effect on any small business, small municipality, or not-for-profit corporation that appears before the Board in any type of proceeding or which seeks to contact the Board for any reason, including to inspect and copy Board records. Proceedings before the Board include enforcement actions, rulemaking proceedings, variance proceedings, adjusted standard proceedings, site-specific rulemaking proceedings, permit appeals, pollution control facility siting appeals, and any other actions provided by law.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:
ILLINOIS REGISTER 21106

POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently anticipated proceedings would affect the text of Parts 101 through 130.

c) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)

1) Rulemaking: Docket number R06-14

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

The Board has reserved docket number R06-14 to accommodate any federal amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period July 1, 2005 through December 31, 2005. At this time, the Board is not aware of any
federal amendments to the federal definition of VOM that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-February 2006. The Board will then propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure or dismiss docket R06-14, as necessary and appropriate.

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-14, if the earliest federal amendments in the applicable period are assumed to have occurred on the first day of the update period, on July 1, 2005, the due date for Board adoption would be July 1, 2006.

B) Statutory authority: Implementing and authorized by Sections 7.2, 9.1(e), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 9.1(e) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. The Board will then schedule and conduct at least one public hearing, as required by Section 118 of the federal Clean Air Act (42 USC § 7418) for amendment of the Illinois ozone SIP.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2006, after which time the Board will propose any amendments to the Illinois definition of VOM that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be July 1, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by early April 2006. This would be sufficiently in advance of the due date to allow the Board to accept
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public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board would promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the emission of a chemical compound that is the subject of a proposed exemption or proposed deletion from the USEPA list of exempted compounds.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-14, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R06-14, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois  60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information: Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear
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in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

d) Parts (Headings and Code Citations):
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)
Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

1) Rulemaking: No docket presently reserved.

A) Description: The IEPA is currently developing amendments for proposal to the Board of Part 218 and Part 219 concerning motor vehicle refinishing. This involves amending the equipment requirements of the Parts to allow the use of paint applicator equipment that achieves the same or better transfer efficiency as the required High Volume Low Pressure (HVLP) equipment.

B) Statutory authority: Implementing and authorized by Sections 9.8, 27, 28.2 of the Environmental Protection Act [415 ILCS 5/9.8, 27, 28.2].

C) Scheduled meeting/hearing dates: The IEPA has stated that it anticipates submitting its rulemaking proposal to the Board in the Spring or Summer of 2006. Once a proposal is filed, the Board will hold hearings on the schedule established in Section 27 of the Environmental Protection Act [415 ILCS 5/27] for rulemakings that are required under the federal CAA.

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small business, small municipalities, or not-for-profit corporation: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that are involved in
motor vehicle refinishing. However, the IEPA anticipates that the amendments will have no new substantive impact on any sources, since the amendments give greater flexibility to sources.

F) Agency contact person for information: Address comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA attorney:

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


1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency is preparing a rulemaking relating to an alternative to the current cold cleaning provision requiring the use of solvent with a vapor
pressure no greater than 1.0 mm Hg (0.019 psi). The alternative is an alternative control plan employing add-on control devices that demonstrate at least 95 percent overall capture and control of emissions from cold cleaning operations.

B) Statutory authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

C) Scheduled meeting/hearing date: The IEPA has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2006. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule change may affect any small business, small municipality, or not-for-profit corporation subject to the Board's Cold Cleaning Degreaser rules.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:
POLLUTION CONTROL BOARD

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Internet: conleye@ipcb.state.il.us

G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Annet Godiksen
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544


1) Rulemaking: No docket number presently assigned.

A) Description: The proposal would amend Part 217 to update the incorporations by reference; to reflect the Agency's authority to sell certain allowances and clarify the compliance dates for sources affected by Subparts T, U, and W, pursuant to amendments to Section 9.9 of the Act; clarify the low-emitter provisions for Subpart U and remove the low-emitter provisions for Subpart W units; clarify that certain CO boilers are exempt from the provisions of Subpart U; clarify the dates that applications must be submitted, and the dates and control periods for which the Agency will allocate allowances; as well as amend to the Appendices to track name and allocation changes. These Subparts regulate emissions of NOx emissions from boilers and turbines serving electric generator units greater than 25 megawatts; boilers and turbines with heat input greater than 250 mmBtu/hr; and large cement kilns with ozone season emissions greater than one ton.
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Additional amendments to Part 217, will be proposed to address Phase II of the NOx SIP call, that required affected states, including Illinois, to regulate the NOx emissions from large stationary internal combustion engines. (69 Fed. Reg. 21604 (April 21, 2004)). This proposal may also include regulating NOx emissions from smaller engines and turbines not covered by Subparts U and W, as part of the State's obligation to meet NOx reasonably available control technology requirements (RACT) for the new 8-hour ozone National Ambient Air Quality Standard (NAAQS). (69 Fed. Reg. 23951 (April 30, 2004)).

B) **Statutory authority**: Implementing and authorized by Sections 9, 9.9, 10, 27, and 28.5 of the Illinois Environmental Protection Act [415 ILCS 5/9, 9.9, 10, 27, and 28.5, (2003)].

C) **Scheduled meeting/hearing dates**: None yet scheduled.

D) **Date agency anticipates First Notice**: The Board anticipates First Notice publication of the proposed rules in the *Illinois Register* in the Spring or Summer of 2006.

E) **Effect on small business, small municipalities, or not-for-profit corporation**: Any small businesses, small municipalities, or not-for-profit corporations that are subject to the NOx Trading Program could be affected by the proposed amendments.

F) **Agency contact person for information**: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

   Erin Conley, Rules Coordinator  
   Pollution Control Board  
   1021 North Grand Avenue East  
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Springfield, Illinois 62794-9276
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA representative:

Rachel L. Doctors
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 524-3337
Internet: epa8856@epa.state.il.us

g) Part (Heading and Code Citation): Portable Fuel Containers (35 Ill. Adm. Code 218 and 219)

1) Rulemaking: No docket presently reserved.

A) Description: This rulemaking will address emissions from portable fuel containers.

B) Statutory authority: Implementing Sections 9 and 10 of the Environmental Protection Act [415 ILCS 5/9, 10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]

C) Scheduled meeting /hearing date: The IEPA has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2006. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the
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Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation utilizing portable fuel containers.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
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Springfield, Illinois 62794-9274
Telephone: 217/782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Charles Matoesian
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544
Internet: epa8855@epa.state.il.us

h) Part (Heading and Code Citation): Commercial and Industrial Solid Waste Incineration Units (35 Ill. Adm. Code 225)
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1) Rulemaking: No docket presently reserved.

A) Description: On December 1, 2000, pursuant to Sections 111(d) and 129 of the Clean Air Act, the USEPA promulgated emission guidelines for commercial and industrial solid waste incinerators (65 Fed. Reg. 75337). Illinois is required to adopt a State plan that includes rules, implementing these emission guidelines. This rule would apply to units that commenced construction on or before November 30, 1999, and units where reconstruction or modification commenced prior to June 1, 2001.

B) Statutory Authority: Implementing Sections 10, 39 and 39.5 of the Illinois Environmental Protection Act [415 ILCS 5/10, 39 and 39.5] and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/27 & 28.5].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency Anticipates First Notice: A Spring or Summer of 2006 IEPA submittal to the Board of the proposal is expected, after which the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small business, small municipalities or not-for-profit corporations: The prospective amendments would affect small businesses, small municipalities, or not-for-profit corporations that own or operate Existing Commercial and Industrial Solid Waste Incineration Units and Air Curtain Incinerators.

F) Agency and Board contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
POLLUTION CONTROL BOARD

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Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: For information regarding the IEPA's development of this proposal, please contact the following IEPA representative:

Rachel L. Doctors
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 524-3337
Internet: epa8856@epa.state.il.us

i) Part (Heading and Code Citation): Air Quality Standards (35 Ill. Adm. Code 243)

1) Rulemaking: No docket presently reserved.

A) Description: This rulemaking will make amendments to address the new PM 2.5 standard and incorporate the new 8-hour ozone standard.

B) Statutory authority: Implementing Sections 9 and 10 of the Environmental Protection Act [415 ILCS 5/9, 10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]

C) Scheduled meeting/hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].
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D) **Date agency anticipates First Notice:** An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) **Effect on small businesses, small municipalities or not-for-profit corporations:** This rule will not directly affect any small business, small municipality, or not-for-profit corporation.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) **Related rulemaking and other pertinent information:** For information regarding the Illinois EPA's development of this proposal, please contact:

Charles Matoesian
Illinois Environmental Protection Agency
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544
Internet: epa8855@epa.state.il.us
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j) **Part** (Heading and Code Citation): Control of Mercury Emissions from Coal-Fired Electric Generating Units (New Part)

1) **Rulemaking**: No docket presently reserved.

   A) **Description**: This rulemaking will address mercury emissions from coal-fired electric generating units.

   B) **Statutory authority**: Implementing Section 9.10 of the Environmental Protection Act [415 ILCS 5/9.10]

   C) **Scheduled meeting /hearing date**: The IEPA has stated that it anticipates filing a rulemaking proposal with the Board in the Spring or Summer of 2006. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will hold hearings in accordance with the requirements established by Sections 27 and 28 or 28.5 of the Environmental Protection Act [415 ILCS 5/27 and 28 or 28.5].

   D) **Date agency anticipates First Notice**: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

   E) **Effect on small businesses, small municipalities or not-for-profit corporations**: This rule is not anticipated to affect small businesses or not-for-profit corporations, but may affect small municipalities owning and operating coal-fired electric generating units.

   F) **Agency contact person for information**: Address written comments concerning the substance of the rulemaking as follows:

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

      Address questions concerning this regulatory agenda as follows:
G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Charles Matoesian
Gina Roccaforte
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544

k) Part (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302)

1) Rulemaking: R04-25

A) Description: This rulemaking is based on a proposal filed on April 19, 2004 by the Illinois Association of Wastewater Agencies (IAWA). IAWA seeks to amend the Board's rule establishing general use water quality standards for dissolved oxygen (35 Ill. Adm. Code 302.206). Under the existing Board water quality standard, dissolved oxygen must not be less than 6.0 milligrams per liter (mg/L) during at least 16 hours of any 24 hour period, nor less than 5.0 mg/L at any time. The proposal filed by IAWA seeks to amend these standards by explicitly providing that dissolved oxygen be determined on a monthly basis and specifying that (a) during the months of July through February, dissolved oxygen must not be less than a one-day minimum concentration of 3.5 mg/L, and a seven-day mean minimum of 4.0 mg/L, and (b) during the months of March through June, dissolved oxygen must not be
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less than a one-day minimum concentration of 5.0 mg/L, and a seven-day mean of 6.0 mg/L. IAWA also proposed definitions of "mean minimum" and "mean."

B) Statutory authority: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27]

C) Scheduled meeting/hearing date: The Board has held hearings in this rulemaking on June 29, 2004, August 12, 2004, and August 25, 2005.

D) Date agency anticipates First Notice: The Board anticipates that this rulemaking might be adopted for first notice publication sometime in Spring or Summer of 2006.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges particular contaminants into waters of the State.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us
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G) Related rulemaking and other pertinent information: See item (I) below for possible amendments that would also affect Part 302.

I) Part (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302)

1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency (IEPA) is currently preparing a rulemaking proposal for filing before the Board relating to the water quality standards for total dissolved solids, sulfate and chloride. These amendments revise and add numeric water quality standards for the protection of aquatic life. The amended water quality standards will be used by the Illinois Environmental Protection Agency in ensuring compliance with the Clean Water Act requirements at 33 U.S.C. §1313 when issuing National Pollutant Discharge Elimination System permits pursuant to 415 ILCS 5/39(b) and water quality certifications required by 33 U.S.C. §1341.

B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) Scheduled meeting /hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges particular contaminates into waters of the State.
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F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
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Address questions concerning this regulatory agenda as follows:

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Internet: conleye@ipcb.state.il.us

G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Toby Frevert
Bureau of Water
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Il. 62794-9276
217/782-1654

m) Part (Heading and Code Citation): Water Use Designations and Site Specific Water Standards (35 Ill. Adm. Code 303)

1) Rulemaking: No docket presently reserved.

A) Description: 35 Ill. Adm. Code 303 contains the Board's water use designations for all bodies of water in the State of Illinois with use designations other than general use. The IEPA has established a workgroup to conduct a Use Attainability Analysis, pursuant to 40
POLLUTION CONTROL BOARD

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C.F.R. §131.10, of the portions of the lower Des Plaines River that are currently classified as secondary contact and indigenous aquatic life waters pursuant to 35 Ill. Adm. Code 303.441. In addition, the IEPA is preparing a rulemaking proposal for filing before the Board will recommend updating and/or upgrading the use designation of the lower Des Plaines River from its confluence with the Sanitary and Ship Canal to the Interstate 55 bridge.

B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) Scheduled meeting /hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal in the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the lower Des Plaines River.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley
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Internet: conleye@ipcb.state.il.us

G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Deborah J. Williams
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield Il. 62794-9276
217-782-5544

n) Parts (Headings and Code Citations):
Sewage Discharge Criteria (35 Ill. Adm. Code 307)
Pretreatment Programs (35 Ill. Adm. Code 310)

1) Rulemaking: Docket number R06-13

A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved docket number R06-13 to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period July 1, 2005 through December 31, 2005. At this time, the Board is aware of two sets of federal amendments to the federal wastewater pretreatment regulations that occurred during this update period. Those sets are described as follows:

70 Fed. Reg. 59848 (October 13, 2005)
USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments affect, *inter alia*, the drinking water, underground injection control, municipal solid waste landfill, hazardous waste, underground storage tank, and wastewater pretreatment regulations. (The Board may require any electronic filings to comply with the new federal requirements, as incorporated by reference in Section 310.107.)

70 Fed. Reg. 60134 (October 14, 2005)
USEPA adopted amendments to the general wastewater pretreatment requirements. USEPA stated that the amendments were intended to make the wastewater requirements more consistent with those applicable to direct dischargers. USEPA intends that the amendments will decrease the regulatory burden on industrial users without adverse effects on environmental protection and that the amendments will allow a greater focus of oversight resources on industrial users that have the greatest potential to affect POTW operations. (The Board must make corresponding changes to the Illinois pretreatment regulations.)

The Board will verify the existence of any federal actions that may affect the text of the federal wastewater pretreatment regulations and the Board action required in response to each set of federal amendments in coming weeks, by about mid-February 2006. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure under docket R06-13, as necessary and appropriate.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-13, if the earliest federal amendments in the applicable period are assumed to have occurred on October 13, 2005, the due date for Board adoption would be October 13, 2006.
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B) **Statutory authority:** Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].

C) **Scheduled meeting/hearing dates:** None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) **Date agency anticipates First Notice:** The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2006, after which time the Board will propose any amendments to the Illinois wastewater treatment rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October 13, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the *Illinois Register* by early August 2005. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois wastewater pretreatment rules is needed, the Board would promptly dismiss this reserved docket.

E) **Effect on small business, small municipalities, or not-for-profit corporations:** This rulemaking may affect any small business, small municipality, or not-for-profit corporation that pretreatment engages in the discharge of pollutants into the collection system of a publicly-owned treatment works that is the subject of any federal amendments.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking, noting docket number R06-13, as follows:

Dorothy Gunn, Clerk
Pollution Control Board
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

100 West Randolph Street, Suite 11-500
Chicago, Illinois  60601

Address questions concerning this regulatory agenda, noting docket number R06-13, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois  60601
Telephone:  312-814-6924
Internet:  mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information: Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

o) Part (Heading and Code Citation): Standards for Sludge Management (35 Ill. Adm. Code 313)

1) Rulemaking: No docket presently reserved

A) Description: The Illinois Environmental Protection Agency (IEPA) is currently preparing a rulemaking proposal for filing before the Board relating to land application of sewage sludge. The rules would establish pollutant limits, pathogen reduction requirements, and vector control measures applicable to sludge that is applied to land.

B) Statutory authority: Implementing and authorized by Sections 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 27]
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C) Schedule meeting/hearing date: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date agency anticipates First Notice: An IEPA submittal of a proposal to the Board would commence this proceeding, and the IEPA has stated that it expects to file a proposal during the Spring or Summer of 2006. After the filing of a proposal by the IEPA, the Board will cause a Notice of Proposed Rules to appear in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that generates or uses sewage sludge.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

   Erin Conley, Rules Coordinator
   Pollution Control Board
   1021 North Grand Avenue East
   P.O. Box 19274
   Springfield, Illinois 62794-9274
   Telephone: 217-782-2471
   Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently known Board proceedings would potentially impact the general provisions of Part 313.

For information regarding the IEPA's development of this proposal, please contact the following IEPA attorney:

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

Interested persons may also contact the following IEPA representative about its prospective rulemaking proposal:

Alan Keller, P.E.  
Manager, Northern Municipal Unit  
Illinois Environmental Protection Agency  
Division of Water Pollution Control  
Bureau of Water  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Telephone:  217-782-0810

**p) Parts (Heading and Code Citation):** Agriculture Related Water Pollution (35 Ill. Adm. Code Subtitle E)

1) **Rulemaking:** No docket presently reserved.

A) **Description:** The Illinois Environmental Protection Agency (IEPA) will prepare a rulemaking proposal for filing before the Board Relating to the new Concentrated Animal Feeding Operation National Pollutant Discharge Elimination System (NPDES) regulations that were signed by USEPA on December 15, 2002. The IEPA anticipates a review of Subtitle E and a proposal to ensure that it remains consistent with the federal regulations and caselaw reviewing these regulations. See,
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B) **Statutory Authority:** Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].

C) **Scheduled meeting/hearing dates:** No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) **Date agency anticipates First Notice:** An IEPA submittal of the rulemaking proposal is anticipated by Spring or Summer of 2006. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for First Notice.

E) **Affect on small businesses, small municipalities or not for profit corporations:** This rule could affect any agri-business that meets the federal definition of a Concentrated Animal Feeding Operation.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
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Springfield, Illinois 62794-9274
Telephone: 217-782-2471
POLLUTION CONTROL BOARD

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Internet: conleye@ipcb.state.il.us

G) Related Rulemaking and other pertinent information: Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Deborah J. Williams
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
Telephone: 217-782-5544

q) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

1) Rulemaking: Docket number R06-15

A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois SDWA regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

The Board has reserved docket number R06-15 to accommodate any amendments to the SDWA national primary drinking water standards, 40 CFR 141 through 143, that the United States Environmental Protection Agency (USEPA) may make in the period July 1, 2005 through December 31, 2005. At this time, the Board is aware of one set of federal amendments to the federal national primary drinking water regulations that occurred during this update period. That set of amendments is described as follows:

70 Fed. Reg. 59848 (October 13, 2005)
USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments
affect, *inter alia*, the drinking water, underground injection control, municipal solid waste landfill, hazardous waste, underground storage tank, and wastewater pretreatment regulations. (The Board may require any electronic filings to comply with the new federal requirements, as incorporated by reference in Section 611.102.)

The Board will verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2006. The Board will then propose corresponding amendments to the Illinois SDWA primary drinking water regulations using the identical-in-substance procedure or dismiss docket R06-15, as necessary and appropriate.

Section 17.5 mandates that the Board complete its amendments within one year of the date on which the United States Environmental Protection Agency (USEPA) adopted its action upon which the amendments are based. In docket R06-15, if the earliest federal amendments in the applicable period are assumed to have occurred on October 13, 2005, the due date for Board adoption would be October 13, 2006.

B) Statutory authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2006, after which time the Board will propose any amendments to the Illinois SDWA drinking water rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October
13, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by early August 2006. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois definition is needed, the Board would promptly dismiss this reserved docket.

E) **Effect on small business, small municipalities, or not-for-profit corporations:** This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois that owns or operates a "public water supply," as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance.

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking, noting docket number R06-15, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R06-15, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street Suite 11-500
Chicago, Illinois  60601
Telephone:  312-814-6924
Internet:  mccambm@ipcb.state.il.us

G) **Related rulemakings and other pertinent information:** Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] provides that Title VII of the Act and Section 5 of the Administrative
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Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.


1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency's (IEPA) proposal will seek to amend the public water supplies rules found in 35 Ill. Adm. Code 611 to cross reference the IEPA's own laboratory accreditation rules found at 35 Ill. Adm. Code 186. These prospective amendments to Sections 611.359, 611.611, 611.646, and 611.648 would cross-reference the laboratory accreditation rules at 35 Ill. Adm. Code 186. Currently, the existing text of Part 611 references 35 Ill. Adm. Code 183, which are joint rules of the IEPA, the Illinois Department of Public Health, and the Illinois Department of Nuclear Safety. A repeal of Part 183 has been completed.

B) Statutory Authority: Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/27 & 28].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency Anticipates First Notice: An IEPA submittal of the rulemaking proposal is anticipated by Spring or Summer of 2006. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 & 28] upon receipt of the proposal and would cause a Notice of Proposed Amendments to appear in the Illinois Register when it decides to propose amendments for First Notice.
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E) **Affect on small business, small municipalities or not-for-profit corporations**: These amendments may affect small business, small municipalities, and not-for-profit corporations that own or operate a "public water supply", as defined by Section 3.28 of the Act, i.e., it has at least fifteen service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year, or it is assisting a public water supply to demonstrate compliance with the federally-derived National Primary Drinking Water Standards of 35 Ill. Adm. Code 611. However, it is anticipated that the proceeding will not likely have a quantifiable affect on these entities because the program for national laboratory certification is voluntary. The burden of compliance with the requirements, such as filing documentation, reporting or completion of the necessary forms, likely will not increase.

F) **Agency contact person for information**: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) **Other pertinent information concerning these amendments**: Interested persons may contact the IEPA about its prospective rulemaking proposal as follows:

Jim Shaw
Division of Laboratories
Part (Headings and Code Citation):  Standards and Requirements for Potable Water Supply Well Surveys and Community Relations Plans (New Part)

1) Rulemaking: No docket presently reserved.

A) Description: P.A. 94-314 was signed into law on July 25, 2005. Among other things, this legislation amends the Environmental Protection Act by adding Title VI-D: Right-To-Know. 415 ILCS 5/25d-1 – 25d-10. Section 25d-7 requires the Illinois Environmental Protection Agency ("Illinois EPA") to "evaluate the Pollution Control Board's rules and propose amendments to the rules as necessary to require potable water supply well surveys and community relations activities where such surveys and activities are appropriate in response to releases of contaminants that have impacted or may impact offsite potable water supply wells." Rather than open for amendment a multitude of Parts where community relations plans and potable water supply well surveys might be appropriate, the Illinois EPA is developing a "stand-alone" Part that will apply across several other Parts. This is similar in concept to 35 Ill. Adm. Code 742: Tiered Approach to Corrective Action Objectives, which establishes a methodology for determining remediation objectives for cleanups performed under several regulatory programs.

The purpose of the well survey requirements will be to establish minimum standards and requirements for performing well surveys to ensure that wells are accurately identified and located so that impacts or potential impacts to such wells from soil or groundwater contamination, or both, can be identified. Well survey requirements will include procedures for defining the well survey area, information sources that must be consulted to investigate for wells within the survey area, standardized procedures for documenting and reporting the results of well surveys, and discretionary authority for the Agency to require
additional investigation, including physical well surveys, to resolve any uncertainties.

The purpose of community relations activities will be to establish two-way communications between the person performing the remediation and community members who may be affected by (or perceive they are affected by) groundwater contamination migrating from the site where the release occurred. The proposal will include criteria for determining when a well has been impacted or may be impacted by contamination migrating from the site where the release occurred. Community relations activities may include developing and implementing community relations plans, developing and distributing fact sheets about the release, submitting plans and fact sheets for Illinois EPA review and approval, and establishing and maintaining document repositories. Compliance monitoring provisions also may be included.

B) **Statutory Authority**: Section 25d-7 of the Environmental Protection Act [415 ILCS 5/25d-7]

C) **Scheduled Meeting/Hearing Dates**: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) **Date Agency Anticipates First Notice**: The Illinois EPA anticipates submitting its proposal in early 2006 after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) **Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations**: Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they are addressing a release of contaminants pursuant to Pollution Control Board rules. If, during the course of addressing a release, it becomes necessary to identify the existence and location of potable water supply wells, the standards for performing and documenting well surveys will be applicable. For those who fall within the criteria for community relations activities, a community relations plan may be required along with
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the establishment of a web-site document repository and the preparation and distribution of a fact sheet with relevant information about the site, the remediation activities, and the potential impact to the public. These requirements will increase the resources necessary for persons performing remediation and whose sites fall within the criteria.

F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Mark Wight
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P. O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544
Internet: Mark Wight@epa.state.il.us

t) Part (Heading and Code Citation): Groundwater Quality (35 Ill. Adm. Code 620)
1) **Rulemaking:** No docket presently reserved.

A) **Description:** The Illinois Environmental Protection Agency (Illinois EPA) continues to evaluate contaminants of concern that have been commonly detected in Illinois' groundwater for inclusion in 35 Ill. Adm. Code 620. One such constituent is perchlorate. This rocket fuel component has been discovered in Illinois' groundwater, and its occurrence in Illinois is being further evaluated. Another constituent that may be considered for inclusion in the rules is ammonia. While ammonia is not a health concern at the concentrations at which it has been reported, the greater health risk is the conversion of ammonia to nitrite and nitrate within a water distribution system. In addition, the Illinois EPA has evaluated contaminants commonly detected in groundwater in association with solid waste and Resource Conservation and Recovery Act (RCRA) sites. Groundwater standards are being developed for approximately 48 contaminants that have been commonly detected in groundwater at these sites where cleanup objectives have already been developed under the Tiered Approach to Corrective Action Objectives (TACO) (35 Ill. Adm. Code 742). Finally, three constituents (radium 226, radium 228, and arsenic) have had new Maximum Contaminant Levels (MCLs) adopted. Radium and arsenic occur with some frequency in Illinois' groundwater. Therefore, a groundwater standard amendment consistent with the MCL will be proposed.

B) **Statutory authority:** Implementing and authorized by Section 8 of the Illinois Groundwater Protection Act (IGPA) [415 ILCS 55/1] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].

C) **Scheduled meeting /hearing date:** No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) **Date agency anticipates First Notice:** An Illinois EPA anticipates submitting a proposal to the Board in the Spring or Summer of 2006. After the filing of a proposal by the Illinois EPA, the Board
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will cause publication of a Notice of Proposed Amendments in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The Illinois EPA does not anticipate that this rule will have a significant impact on any small business, small municipality, or not-for-profit corporations.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217/782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemaking and other pertinent information: For information regarding the Illinois EPA's development of this proposal, please contact:

Richard Cobb
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
Telephone: 217-785-4787

u) Parts (Headings and Code Citations):
RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
UIC Permit Program (35 Ill. Adm. Code 704)
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Procedures for Permit Issuance (35 Ill. Adm. Code 705)
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)

1) Rulemaking: Presently reserved docket number R06-16

A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved docket number R06-16 to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period July 1, 2005 through December 31, 2005. At this time, the Board is aware of one set of federal amendments to the federal UIC regulations that occurred during this update period. That set of amendments is described as follows:

70 Fed. Reg. 59848 (October 13, 2005)
USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments affect, inter alia, the drinking water, underground injection control, municipal solid waste landfill, hazardous waste, underground storage tank, and wastewater pretreatment regulations. (The Board may require any electronic filings to comply with the new federal requirements, as incorporated by reference in Section 720.111.)

The Board will verify the existence of any additional federal actions and the Board action required in response to each in coming weeks, by about mid-February 2006. The Board will then propose corresponding amendments to the Illinois UIC regulations using the identical-in-substance procedure or dismiss docket R06-16, as necessary and appropriate.
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Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-16, if the earliest federal amendments in the applicable period are assumed to have occurred on October 13, 2005, the due date for Board adoption would be October 13, 2006.

B) Statutory authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2006, after which time the Board will propose any amendments to the Illinois UIC rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October 13, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by early August 2006. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation in Illinois to the extent the affected entity engages in the underground injection of waste.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-16, as follows:
G) Related rulemakings and other pertinent information: USEPA adopted the federal underground injection control (UIC) amendments of October 13, 2005 together with closely associated amendments to the RCRA Subtitle C hazardous waste and RCRA Subtitle D municipal solid waste landfill (MSWLF) regulations. The amendments relate to submission of documents to the government in an electronic format. Due to the related subject matter, and for the purposes of administrative economy, the Board will likely consolidate the UIC update docket R06-16 together with the RCRA Subtitle C update docket R06-18 and RCRA Subtitle D MSWLF docket R06-17 for single consideration and adoption.

USEPA adopted the federal UIC amendments of February 24, 2005 together with closely associated amendments to the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste regulations. The UIC and RCRA Subtitle C amendments both relate to a single new hazardous waste listing. Due to the related subject matter, and for the purposes of administrative economy, the Board will likely consolidate UIC update docket R06-16 together with RCRA Subtitle C update docket R06-7 for single consideration and adoption.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this
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rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

v) Parts (Headings and Code Citations):
RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)
RCRA Permit Program (35 Ill. Adm. Code 703)
Procedures For Permit Issuance (35 Ill. Adm. Code 705)
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)
Land Disposal Restrictions (35 Ill. Adm. Code 728)
Standards for Universal Waste Management (35 Ill. Adm. Code 733)
Standards for The Management of Used Oil (35 Ill. Adm. Code 739)

1) **Rulemaking**: Docket number R06-18

A) **Description**: Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved docket number R06-18 to accommodate any amendments to the federal RCRA Subtitle C program, 40 CFR 260 through 270, 273, and 279, that USEPA made in the period July 1, 2005 through December 31, 2005. At this time, the Board is aware of five sets of federal amendments to the federal RCRA
Subtitle C hazardous waste regulations that occurred during this update period. Those sets of amendments are described as follows:

70 Fed. Reg. 44150 (August 1, 2005)
USEPA corrected the hazardous waste and municipal solid waste landfill segments of its June 14, 2005 (70 Fed. Reg. 34538) amendments to allow the use of alternative methods to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." (The Board incorporated the necessary changes into the Illinois hazardous waste regulations together with the original amendments in consolidated docket R06-16/R06-17/R06-18. No further action will be necessary.)

USEPA adopted amendments that include mercury-containing devices under the universal waste rule, removing these materials from regulation as hazardous waste when regulated according to the universal waste provisions. (The Board adopted a state rule for regulation of these devices as universal waste, under P.A. 93-964, in R05-8, effective April 13, 2005. The Board must now assure that the Illinois provisions allowing regulation as universal waste continue to be consistent with the newer federal amendments.)

70 Fed. Reg. 53420 (September 8, 2005)
USEPA adopted new standardized permit provisions for hazardous waste facilities in a new 40 C.F.R. 267. The federal amendments included conforming amendments to the existing permit provisions of 40 C.F.R. 124 and 270 and the substantive hazardous waste rules of 40 C.F.R. 260 and 261. (The Board must incorporate corresponding changes into the Illinois hazardous waste regulations.)

70 Fed. Reg. 59402 (October 12, 2005)
USEPA adopted amendments that finalize the Hazardous Waste Combustor Rule. This rule imposes national emission standards for hazardous air pollutants (NESHAPs) on hazardous waste combustors. USEPA refers to
incinerators, cement kilns, and lightweight aggregate kilns that burn hazardous waste "Phase I sources," since it adopted standards for these sources on September 30, 1999 (at 64 Fed. Reg. 52828). USEPA refers to industrial, commercial, or institutional boilers and process heaters and hydrochloric acid production furnaces that burn hazardous waste as "Phase II sources." The present amendments include the Phase II standards and final replacement standards to replace interim standards adopted February 13, 2002 for Phase I sources (in response to litigation in Cement Kiln Recycling Coalition v. EPA, 255 F.3d 855 (D.C. Cir. 2001) (vacatur of portions of the original Phase I standards)). (The Board must incorporate corresponding changes into the Illinois hazardous waste regulations.)

70 Fed. Reg. 59848 (October 13, 2005)
USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments affect, inter alia, the drinking water, underground injection control, municipal solid waste landfill, hazardous waste, underground storage tank, and wastewater pretreatment regulations. (The Board may require any electronic filings to comply with the new federal requirements, as incorporated by reference in Section 720.111.)

The Board included action on the federal amendments of August 1, 2005 in the prior consolidated identical-in-substance docket R06-5/R06-6/R06-7, presently pending. Thus, Board action may be necessary on only four of the above-listed federal actions.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-August The Board will then propose corresponding amendments to the Illinois RCRA Subtitle C hazardous waste regulations using the identical-in-substance procedure or dismiss docket R06-18, as necessary and appropriate.
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Section 22.4(a) mandates that the Board complete our amendments within one year of the date on which the United States Environmental Protection Agency (USEPA) adopted its action upon which our amendments are based. Assuming for the purposes of illustration that the earliest USEPA action during the update period that will require Board action is August 5, 2005, the due date for Board adoption of all amendments in the period would be August 5, 2006.

B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(a), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(a) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August after which time the Board will propose any amendments to the Illinois RCRA Subtitle C hazardous waste rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be August 5, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by late March 2006. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
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F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-18, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R06-18, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois  60601
Telephone:  312-814-6924
Internet:  mccambm@ipcb.state.il.us

G) Related rulemakings and other pertinent information: USEPA adopted the federal RCRA Subtitle C hazardous waste amendments of October 13, 2005 together with closely associated amendments to the underground injection control (UIC) and RCRA Subtitle D municipal solid waste landfill (MSWLF) regulations. The amendments relate to submission of documents to the government in an electronic format. Due to the related subject matter, and for the purposes of administrative economy, the Board will likely consolidate RCRA Subtitle C update docket R06-18 together with UIC update docket R06-16 and RCRA Subtitle D MSWLF docket R06-17 for single consideration and adoption.

Section 22.4(a) of the Environmental Protection Act [415 ILCS 5/22.4(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.
Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

1) Rulemaking: Docket number R06-12

A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved docket number R06-12 to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period July 1, 2005 through December 31, 2005. At this time, the Board is not aware of any federal amendments that occurred during this update period.

The Board will verify the existence of any federal actions and the Board action required in response to each in coming weeks, by about mid-August 2005. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss docket R06-12, as necessary and appropriate.

Section 22.4(d) mandates that the Board complete our amendments within one year of the date on which USEPA adopted its action upon which our amendments are based. Assuming for the purposes of illustration that USEPA adopted an amendment that will require Board action on the first day of the update period, on July 1, 2005, the due date for Board adoption would be July 1, 2006.

B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].
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C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-August 2005, after which time the Board will propose any amendments to the Illinois UST regulations that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be July 1, 2006, for the purposes of illustration, the Board would vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by early April 2006. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments. Alternatively, if no amendment to the Illinois regulations is needed, the Board would promptly dismiss this reserved docket.

E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-12, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R06-12, as follows:
G) Related rulemakings and other pertinent information: No other presently-known proceeding would impact the text of Part 731.

Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the Illinois Register, and it will accept public comments on the proposal for 45 days after the date of publication.

x) Part (Headings and Code Citation): Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)

1) Rulemaking: R06-10

A) Description: Since the Board rules were adopted on June 5, 1997, the IEPA's implementation of the rules has given rise to the need for some amendments, corrections, and clarifications to existing rules. Additionally, technical documents that were used in drafting the rules have been updated, necessitating amendments to the rules.

B) Statutory Authority: These amendments will be proposed pursuant to Sections 27, 57.14 and 58.5 of the Environmental Protection Act [415 ILCS 5/27, 57.14, and 58.5].

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D) Date Agency Anticipates First Notice: The Board will anticipate proposing these amendments for first notice in the Spring or Summer of 2006, after the two scheduled hearings have been held.

E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: The amendments may affect any small business, small municipality or not-for-profit corporation subject to the Board's tiered approach to corrective action rules.

F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Kimberly A. Geving
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: (217) 782-5544

y) Part (Headings and Code Citation): Solid Waste and Special Waste Hauling (35 Ill. Adm. Code Part 807 and 811)
1) **Rulemaking:** No docket presently reserved.

A) **Description:** The Illinois Environmental Protection Agency is planning to propose amendments to Part 807 Subpart F and Part 811 Subpart G relating to Financial Assurance including adding evergreen renewal language to several financial assurance mechanisms.

B) **Statutory Authority:** These amendments will be proposed pursuant to Sections 21.1, 22 and 27 of the Environmental Protection Act [415 ILCS 5/21.1, 22 and 27]

C) **Scheduled Meeting/Hearing Dates:** No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) **Date Agency Anticipates First Notice:** The IEPA anticipates submitting its proposal in Spring 2005, after which the Board will cause publication of a Notice of Proposed Amendments in the *Illinois Register*.

E) **Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations:** The amendments may affect any small business, small municipality or not-for-profit corporation providing or requesting financial assurance for the closure and post closure care of waste disposal sites.

F) **Agency Contact Person for Information:** Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator  
Pollution Control Board
G) Related Rulemaking and other pertinent information: For information regarding the development of these amendments please contact:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
Telephone: 217-782-5544
E-Mail: Stephanie.Flowers@epa.state.il.us

z) Parts (Headings and Code Citations):
Solid Waste (35 Ill. Adm. Code 807)
Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)
Interim Standards for Existing Landfills and Units (35 Ill. Adm. Code 814)
Procedural Requirements for All Landfills Exempt from Permits (35 Ill. Adm. Code 815)

1) Rulemaking: Presently reserved docket number R06-17

A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved docket number R06-17 to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258,
that USEPA may make in the period July 1, 2005 through December 31, 2005. At this time, the Board is aware of one set of federal amendments to the federal MSWLF regulations that occurred during this update period. That set of amendments is described as follows:

70 Fed. Reg. 59848 (October 13, 2005)
USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The amendments affect, inter alia, the drinking water, underground injection control, municipal solid waste landfill, hazardous waste, underground storage tank, and wastewater pretreatment regulations. (The Board may require any electronic filings to comply with the new federal requirements, as incorporated by reference in Section 810.107.)

The Board will verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards and the Board action required in response to each in coming weeks, by about mid-February 2006. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure or dismiss docket R06-17, as necessary and appropriate.

Section 22.40(a) mandates that the Board complete its amendments within one year of the date on which USEPA adopted its action upon which the amendments are based. In docket R06-17, if the earliest federal amendments in the applicable period is assumed to have occurred on October 13, 2005, the due date for Board adoption of all amendments in the period would be October 13, 2006.

B) Statutory authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open
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meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board cannot project an exact date for publication at this time. The Board expects to verify any federal actions by mid-February 2006, after which time the Board will propose any amendments to the Illinois RCRA Subtitle D MSWLF rules that are necessary in response to the federal amendments that have occurred. If the due date for Board adoption of amendments in this docket is assumed to be October 13, 2006, the Board will vote to propose amendments and cause a Notice of Proposed Amendments to appear in the Illinois Register by early August 2006. This would be sufficiently in advance of the due date to allow the Board to accept public comments on the proposal for 45 days before acting to adopt any amendments.

E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R06-17, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R06-17, as follows:

Michael J. McCambridge, Attorney
Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-6924
Internet: mccambm@ipcb.state.il.us
Related rulemakings and other pertinent information: USEPA adopted the federal RCRA Subtitle D municipal solid waste landfill (MSWLF) amendments of October 13, 2005 together with closely associated amendments to the RCRA Subtitle C hazardous waste and underground injection control (UIC) regulations. The amendments relate to submission of documents to the government in an electronic format. Due to the related subject matter, and for the purposes of administrative economy, the Board will likely consolidate the RCRA Subtitle D MSWLF docket R06-17 together with the RCRA Subtitle C update docket R06-18 and UIC update docket R06-16 for single consideration and adoption.

Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register,* and it will accept public comments on the proposal for 45 days after the date of publication.


1) Rulemaking: R06-08

A) Description: This site-specific rulemaking is based on a proposal filed by the Silbrico Corporation (Silbrico). The proposal, filed on July 19, 2005, seeks to amend the Board's solid waste disposal regulations.

Silbrico, located in Hodgkins, Cook County, has proposed a site-specific rule for what it characterizes as nonhazardous, inert waste generated at its manufacturing facility. Silbrico's proposed rule would allow it to dispose of this waste in a "clean fill construction and demolition debris" facility. Silbrico manufactures products using perlite, a volcanic rock that expands up to 20 times in size when heated. In its petition for rulemaking, Silbrico asserted that...
due to the inert and nonhazardous characteristics of the off-
specification perlite and the fugitive perlite (collectively waste
perlite), it seeks to dispose of these wastes at a "clean fill" facility
that accepts only clean construction and demolition debris.
Silbrico asserted that allowing the disposal of the waste perlite at a
"clean fill" facility would save valuable space in municipal waste
landfills and result in significant cost savings, while posing no
environmental violation or threat.

B) Statutory authority: Implementing Sections 5, 21, 21.1, 22,
22.17, and 28.1 and authorized by Section 27 of the Environmental
Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1 and 27].

C) Scheduled meeting/hearing dates: The Board is in the process of
scheduling at least one hearing in this rulemaking.

D) Date Agency anticipates First Notice: The Board may adopt a first
notice opinion and order in this rulemaking sometime in the Spring
or Summer of 2006.

E) Effect on small businesses, small municipalities or not-for-profit
corporations: Because this has been filed as a site-specific
rulemaking, these amendments would only affect Silbrico.

F) Agency contact person for information: Address written comments
concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
ILLINOIS REGISTER

POLLUTION CONTROL BOARD

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Internet: conleye@ipcbl.state.il.us

G) Related rulemakings and other pertinent information: None


1) Rulemaking: No docket presently reserved.

A) Description: The Illinois Environmental Protection Agency is planning to propose amendments to the Board's regulations that will allow better implementation of the used and waste tire management program including changes necessary to make the Board's rules consistent with legislative amendments to Title XIV of the Environmental Protection Act [415 ILCS 5/53 et seq.] resulting from Public Act 92-0024.

B) Statutory authority: Sections 27 and 55.2 of the Environmental Protection Act [415 ILCS 5/27 and 55.2].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28].

D) Date Agency anticipates First Notice: Submission to the Board by the Illinois EPA may be as soon as the Spring 2005, after which the Board will cause publication of a Notice of Proposed Rules in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect any small business, small municipality or not-for-profit corporation that manages used or waste tires.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

Dorothy Gunn, Clerk
Pollution Control Board
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently-known proceeding will affect solid waste transfer stations. For information regarding the development of these rules please contact:

Stephanie Flowers
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276
217-782-5544
Stephanie.Flowers@epa.state.il.us


1) Rulemaking: R06-11

A) Description: This rulemaking is based on a proposal filed on October 20, 2005, by Vaughan & Bushnell Manufacturing Company (V&B). V&B seeks a site-specific rule amending a previously promulgated site-specific noise rule that would extend the allowable operational levels of its forging facility located at the intersection of Davis and Main Streets, Bushnell in McDonough County.
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B) Statutory authority: Implementing Section 25 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/25 and 27].

C) Scheduled meeting/hearing dates: The Board is in the process of scheduling at least one hearing in this rulemaking.

D) Date Agency anticipates First Notice: The Board may adopt a first notice opinion and order in this rulemaking sometime in the Spring or Summer of 2006.

E) Effect on small businesses, small municipalities or not-for-profit corporations: Because this rulemaking was filed as a site-specific rule, it will only apply to the operations at V&B.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Erin Conley, Rules Coordinator
Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217-782-2471
conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: None


1) Rulemaking: R06-19
A) **Description:** The proposed new rule creates procedures for permitting clean construction or demolition debris fill operations pursuant to new Section 22.51, contained in Senate Bill 431 (enrolled). Senate Bill 431 was recently passed by the General Assembly.

B) **Statutory authority:** Authorized by Section 22.51(c), see Senate Bill 431 (enrolled).

C) **Scheduled meeting/hearing dates:** The Board is in the process of scheduling hearings in this rulemaking.

D) **Date agency anticipates First Notice:** Due to the statutory timeline established for this rulemaking, the Board will adopt a first notice opinion and order in the early Spring of 2006.

E) **Effect on small business, small municipalities, or not-for-profit corporation:** Any small business, small municipality, or not-for-profit corporation seeking to use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation will be subject to Section 22.51 (see Senate Bill 431, enrolled).

F) **Agency contact person for information:** Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

   Erin Conley, Rules Coordinator  
   Pollution Control Board  
   1021 North Grand Avenue East  
   P.O. Box 19274  
   Springfield, Illinois 62794-9274  
   Telephone: 217-782-2471
POLLUTION CONTROL BOARD

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Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently-anticipated proceedings would affect the text of Part 825.

ee) Parts (Headings and Code Citations):
- Standards and Requirements for New and Existing Municipal Waste Transfer Stations (New Part)
- Information to be Submitted in a Permit Application for a Municipal Waste Transfer Station (New Part)
- Procedural Requirements for Municipal Waste Transfer Station Permits (New Part)

1) Rulemaking: No docket presently reserved.

A) Description: Municipal waste transfer stations currently are regulated under 35 Ill. Adm. Code 807. The Part 807 rules were developed primarily for solid waste landfills. As applied to transfer stations, they are very general with many of the specific requirements for transfer stations imposed through permit conditions under Section 807.206. Transfer stations are increasing in number and importance in Illinois' waste management system. In addition, the United States Environmental Protection Agency published in June 2002 "Waste Transfer Stations: A Manual for Decision-Making" (EPA530-R-02-002), guidance developed to "promote the use of best practices in transfer station siting, design and operation to maximize facilities' effectiveness while minimizing their impact on the community." In light of these factors, the Illinois Environmental Protection Agency ("Illinois EPA") is developing new Parts that will provide more specific requirements for the design, construction, operation and closure of municipal waste transfer stations as well as procedures for obtaining permits. Included with municipal waste transfer stations accepting garbage and general household and commercial waste are those transfer stations accepting exclusively construction and demolition debris and those used exclusively for landscape waste.
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B) Statutory authority: These rules will be proposed pursuant to Sections 4(i), 21(d), 22, 27 and 28 of the Environmental Protection Act [415 ILCS 5/4(i), 21(d), 22, 27, 28].

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct hearings in accordance with Sections 27 and 28 of the Act [415 ILCS 5/27, 28].

D) Date Agency anticipates First Notice: Submission to the Board by the Illinois EPA may be as soon as the Spring or Summer of 2006, after which the Board will cause publication of a Notice of Proposed Rules in the Illinois Register.

E) Effect on small businesses, small municipalities or not-for-profit corporations: Generally, small businesses, small municipalities and not-for-profit corporations will not be affected by the proposal unless they receive municipal waste for transfer prior to treatment or disposal. For those that do, the substantive changes in requirements for design, construction and operation are expected to be minimal with many existing transfer stations already in compliance with most of the standards and requirements. However, there may be some expense for upgrading existing transfer stations.

F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

   Erin Conley, Rules Coordinator
   Pollution Control Board
   1021 North Grand Avenue East
   P.O. Box 19274
   Springfield, Illinois 62794-9274
POLLUTION CONTROL BOARD

JANUARY 2006 REGULATORY AGENDA

Telephone: 217-782-2471
Internet: conleye@ipcb.state.il.us

G) Related rulemakings and other pertinent information: No other presently known proceeding will affect municipal waste transfer stations. For information regarding the development of these rules please contact:

Mark Wight
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
217-782-5544
Internet: Mark.Wight@epa.state.il.us
a) Part(s) (Heading and Code Citation): Rail Freight Program;  
92 Ill. Adm. Code 800

1) Rulemaking:

A) Description: The Department will be updating and clarifying provisions in this Part.

B) Statutory Authority: 20 ILCS 2705-435

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments will not affect small businesses any differently than any other entity seeking a loan under the program.

F) Agency contact person for information:
Name: Christine Carona-Beard, Rules Manager  
Illinois Department of Transportation  
Office of Chief Counsel, Room 311

Address: 2300 South Dirksen Parkway  
Springfield, IL  62764

Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Rates to be Charged by Official Testing Stations;  
92 Ill. Adm. Code 439

1) Rulemaking:

A) Description: The Department intends to promulgate this new Part to replace Parts 446 and 454 so that rate increase procedures are consolidated into one Part covering all vehicles. Additionally, the new Part will provide that Station owners need only appear at administrative hearings when the owner’s requested rate schedule is denied by the Department.
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B) Statutory Authority:  625 ILCS 5/13-106

C) Scheduled meeting/hearing date:  None scheduled

D) Date agency anticipates First Notice:  Within six months

E) Effect on small businesses, small municipalities or not for profit corporations:  Small businesses will be positively impacted by the changes to the rate rules. Upon adoption of the new Part, Station owners will no longer have to attend a hearing to obtain approval for a rate increase. The Department does not anticipate the rules having any impact on either small municipalities or not for profits.

F) Agency contact person for information:
   Name:  Christine Caronna-Beard, Rules Manager
   Illinois Department of Transportation
   Office of Chief Counsel, Room 311
   Address:  2300 South Dirksen Parkway
   Springfield, IL  62764
   Telephone:  (217) 782-3215

G) Related rulemakings and other pertinent information:
   Rates to be Charged by Official Testing Stations for Vehicles Other Than School Buses, 92 Ill. Adm. Code 454; and Rates to be Charged by Official Testing Stations for School Buses, 92 Ill. Adm. Code 446.

c) Part(s) (Heading and Code Citation):  Rates to be Charged by Official Testing Stations for School Buses; 92 Ill. Adm. Code 446

   1) Rulemaking:

   A) Description:  The Department intends to repeal this Part and replace it with a new Part that will cover rates for all vehicles not just school buses.

   B) Statutory Authority:  625 ILCS 5/13-106

   C) Scheduled meeting/hearing date:  None scheduled
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D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not impact small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:
Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information:
Rates to be Charged by Official Testing Stations for Vehicles Other Than School Buses, 92 Ill. Adm. Code 454; and a new Part the Department intends to promulgate titled, Rates to be Charged by Official Testing Stations, 92 Ill. Adm. Code 439.

d) Part(s) (Heading and Code Citation): Rates to be Charged by Official Testing Stations for Vehicles Other Than School Buses; 92 Ill. Adm. Code 454

1) Rulemaking:

A) Description: The Department intends to repeal this Part and replace it with a new Part that will cover rates for all vehicles including school buses.

B) Statutory Authority: 625 ILCS 5/13-106

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not impact small businesses, small municipalities or not for profit corporations.
DEPARTMENT OF TRANSPORTATION

JANUARY 2006 REGULATORY AGENDA

F) Agency contact person for information:
Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information:

e) Part(s) (Heading and Code Citation): Illinois Cycle Rider Safety Training Rules;
92 Ill. Adm. Code 455

1) Rulemaking:

A) Description: The Department will repeal this Part and simultaneously propose a new Part with the same Part name and number to better reflect the cycle rider safety training program since its inception over 20 years ago. Among other things, the Department will be updating the provisions concerning the regional boundary criteria, instructor qualifications and course curriculum.

B) Statutory Authority: 625 ILCS 35

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This rulemaking will not affect small businesses, small municipalities or not for profit corporations.

F) Agency contact person for information:
Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
DEPARTMENT OF TRANSPORTATION

JANUARY 2006 REGULATORY AGENDA

Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None
The following second notices were received by the Joint Committee on Administrative Rules during the period of December 13, 2005 through December 19, 2005 and have been scheduled for review by the Committee at its January 18, 2006 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY  

STATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING  

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
– DIVISION OF PROFESSIONAL REGULATION  

Heading of the Part: The Illinois Landscape Architecture Act of 1989  

Code Citation: 68 Ill. Adm. Code 1275  

Section Number: 1275.55(a)  

Date Originally Published in the Illinois Register: 8/12/05  
29 Ill. Reg. 12320  

At its meeting on December 13, 2005, the Joint Committee on Administrative Rules objected to Section 1275.55(a) of the above cited rulemaking because the Department has failed to make a clear distinction as to which applicants will apply for licensure under this subsection as opposed to Section 1275.60.  

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.
Heading of the Part: Illinois Military Family Relief Fund Act

Code Citation: 95 Ill. Adm. Code 200

Section Numbers: 200.5  200.10  200.20
               200.30  200.40  200.50
               200.60  200.70  200.80
               200.90

Date Originally Published in the Illinois Register: 12/17/04
                                                28 Ill. Reg. 16077

At its meeting on December 13, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that DMA pay closer attention to its rulemaking activities so that substantial gaps do not occur between the expiration of the emergency rule and adoption of the permanent replacement rulemaking, to avoid a time period in which it is enforcing policy not in rule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on December 13, 2005, the Joint Committee on Administrative Rules objected to the Pollution Control Board's rulemaking titled Effluent Standards (35 Ill. Adm. Code 304; 29 Ill. Reg. 6200) because the rulemaking imposes an undue economic and regulatory burden on the affected wastewater treatment facilities by requiring those facilities to meet interim standards for phosphorus discharges. The EPA has committed to the USEPA to have numeric standards in place for nutrients, but not until 2008. This additional time should allow affected entities more time to prepare for any costs associated with these standards.

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.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE ON ADMINISTRATIVE RULES STATEMENT OF RECOMMENDATION TO PROPOSED AMENDMENT

1) Heading of the Part: Conditions of Employment

2) Code Citation: 80 Ill. Adm. Code 303

3) Section Numbers: 303.112

4) Date Notice of Proposed Amendment Published in the Register: March 11, 2005; 29 Ill. Reg. 3403

5) Date JCAR Statement of Recommendation to Proposed Rulemaking Published in the Register: December 2, 2005; 29 Ill. Reg. 19724

6) Summary of Action Taken by the Agency: At its meeting on November 15, 2005, the Joint Committee on Administrative Rules recommended that the Department of Central Management Services take measures to revise its rules in a more timely fashion to conform to Public Acts. The Department agrees that rulemaking should be commenced with appropriate speed after the effective date of the legislation that requires rulemaking, or, as in this situation, that sets the parameters for allowable rulemaking. This rulemaking could have been commenced earlier, but current staff did take action to have the rules reflect the legislative change once they found the lack of rulemaking and after review of the history of the matter. CMS will make every attempt to process rulemaking in a more timely fashion in the future.
2005-392
MEDICALERT FOUNDATION INTERNATIONAL DAY

WHEREAS, access to medical records and history can mean the difference between life and death during a medical emergency. Fortunately, wonderful organizations such as MedicAlert Foundation International help provide this critical information to medical personnel; and

WHEREAS, MedicAlert was founded as a non-profit organization by a physician in 1956 for the purpose of saving lives. Today, MedicAlert serves more than 4 million people worldwide, including more than 112,000 in Illinois; and

WHEREAS, to date, an estimated 80,000 lives have been saved in just the United States thanks to MedicAlert. Through the use of their identification bracelets and computerized medical files that provide critical medical information between patients, providers, payers, and first responders 24-hours a day anywhere in the world, countless others have been saved as well; and

WHEREAS, in addition to the protection MedicAlert affords, they also enable members to manage their personal health records while maintaining security, privacy, and confidentiality. Members direct management of their health records helps prevent misdiagnosis and mistreatment due to unknown medical conditions; and

WHEREAS, MedicAlert Foundation International is clearly an invaluable service to their members and the medical community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 26, 2006 as MEDICALERT FOUNDATION INTERNATIONAL DAY in Illinois in recognition of them as they celebrate 50 years of commitment and dedication to saving lives.

Issued by the Governor on December 13, 2005.
Filed with the Secretary of State December 13, 2005.

2005-388
NATIONAL SOBRIETY DAY (REVISED)

WHEREAS, alcohol abuse is a grave problem that destroys individual lives, rips families apart, and strains local communities; and

WHEREAS, alcohol abuse also causes staggering economic costs. Billions of dollars are spent for property damage and healthcare every year as a direct result of alcohol abuse; and

WHEREAS, today, the terrible consequences of alcohol abuse are widely acknowledged, and the government and private sector are actively engaged in efforts to combat both the causes and symptoms of the problem; and

WHEREAS, the focus on the negative consequences of alcohol abuse, however, reflects only one side of the issue. Equally important is the positive side; and

WHEREAS, sobriety allows us to be fully active and engaged in life. By choosing sobriety, we can fully enjoy all activities and events; and
WHEREAS, National Sobriety Day, commemorated in December each year, is about celebrating that side of the issue. This year, thousands of adults all around the State will celebrate National Sobriety Day on December 11:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 11, 2005 as NATIONAL SOBRIETY DAY in Illinois to raise awareness about alcohol abuse, and to promote the benefits of sobriety.

Issued by the Governor on December 2, 2005.
Filed with the Secretary of State. December 15, 2005

2005-393
MINNIE TIPPETT MARTIN DAY

WHEREAS, at 109, Minnie Tippett Martin is one of the oldest living citizens in our State; and
WHEREAS, one of three children, Minnie was born in October of 1896 to sharecroppers in Brooksville, Mississippi. She had one brother and one sister who have both passed on; and
WHEREAS, Minnie had three children of her own. At an early age, she moved to Washington, D.C. where she met her husband, William Martin; and
WHEREAS, together, Mr. and Mrs. Martin moved to St. Louis and eventually settled across the Mississippi River in East St. Louis; and
WHEREAS, Minnie retired 30 years ago after working as a housekeeper and nanny for a family in Ladue, Missouri for 48 years. Today, Minnie lives in a nursing home, and one of the children she cared for calls monthly to check on her; and
WHEREAS, Minnie's family is continually growing and now includes one grandchild, three great-grandchildren, and two great, great-grandchildren with one more on the way, due on or around December 23:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 23, 2005 as MINNIE TIPPETT MARTIN DAY in Illinois to recognize Minnie’s amazing milestone as she awaits another addition to her family.

Issued by the Governor on December 15, 2005.
Filed with the Secretary of State. December 15, 2005

2005-394
LA RAZA DAY

WHEREAS, this year marks the 35th anniversary of La Raza. Alfredo Torres de Jesus founded La Raza in 1970 with the intent of publishing a newspaper that would reflect the achievements and concerns of the Hispanic community in Chicago; and
WHEREAS, La Raza first hit the streets on March 10, 1970 with a modest circulation of 5,000. Today, La Raza has a circulation of more than 186,000 and is the most read Spanish-language newspaper in Chicago; and
WHEREAS, the credit for La Raza’s success belongs to a number of men and women. Among them are Cesar Dovalina, Walter Briceno, Luis Rossi, and Robert Armband, whom have spearheaded the newspaper to an ever growing success and relevance; and
WHEREAS, all the journalists and editors of La Raza have made significant contributions as well. Humberto Perales Leven, Fernando Prieto, Julio Cesar Montoya, Inocencio Reyes, and Alicia Santelices are just some of the names of journalists and editors whose contributions have graced the newspaper over the years; and

WHEREAS, thanks to the entire team of the newspaper, La Raza has been recognized by the National Association of Hispanic Publications as the “Best Spanish Language Weekly” five times over the past decade. Furthermore, Editor & Publisher recently named La Raza as one of “Ten That Do It Right”; and

WHEREAS, this year, the staff at La Raza will celebrate the holiday season with a company party on December 20:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 20, 2005 as La Raza Day in Illinois in recognition of the newspaper for 35 years of commitment and dedication to the Hispanic community.

Issued by the Governor on December 15, 2005.
Filed by the Secretary of State. December 15, 2005

2005-395
NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

WHEREAS, driving under the influence of mind-altering drugs is a grave problem that destroys individual lives, rips families apart, and strains local communities; and

WHEREAS, last year, more than 16,500 Americans were killed in alcohol-related automobile accidents, including more than 600 men, women, and children in Illinois; and

WHEREAS, alcohol-related automobile accidents accounted for nearly 40 percent of all traffic-related deaths in the United States during 2004. Furthermore, drugs other than alcohol are involved in about 18 percent of automobile driver deaths; and

WHEREAS, driving under the influence of alcohol and drugs also causes staggering economic costs. Billions of dollars are spent for property damage and healthcare every year as a direct result of alcohol- and drug-related automobile accidents; and

WHEREAS, today, the terrible consequences of driving under the influence of mind-altering drugs is widely acknowledged, and the government and private sector are actively engaged in campaigns to address the problem; and

WHEREAS, the December holiday season is traditionally one of the most deadly times of the year for alcohol-impaired driving. Consequently, communities and organizations all across our State and throughout the country will promote responsible driving throughout the month:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim December 2005 as NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH in Illinois, and urge all citizens to drive responsibly so that no one else becomes a victim of drunk or drugged driving.

Issued by the Governor on December 16, 2005.
Filed with the Secretary of State December 16, 2005.

2005-396
CERVICAL CANCER AWARENESS MONTH
WHEREAS, every year, approximately 10,500 women in the United States are diagnosed with cervical cancer, and there are approximately 3,500 deaths from the disease; and
WHEREAS, in 2006, an estimated 630 women will be diagnosed with cervical cancer in just the State of Illinois, and it is estimated that 220 Illinois women will die from the disease; and
WHEREAS, a sexually transmitted virus causes most cases of cervical cancer, which begins in the cervix, the part of the uterus or womb that opens to the vagina; and
WHEREAS, before doctors started using the Pap test in the 1950s, cervical cancer was the leading cause of death from cancer in women. Today, 70 percent of women diagnosed with cervical cancer who take the Pap test survive the disease; and
WHEREAS, recent advances in screening and work on a vaccine will also help prevent cervical cancer death. Until then, however, it is important to get regular Pap tests because cervical cancer often has no signs or symptoms; and
WHEREAS, throughout January, organizations all across the country will promote education about cervical cancer screenings, treatment, and causes:
THEREFORE I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim January 2006 as CERVICAL CANCER AWARENESS MONTH in Illinois to raise awareness about cervical cancer, and to encourage all women to get tested regularly before they fall victim to the disease.

Issued by the Governor on December 16, 2005.
Filed with the Secretary of State December 16, 2005.
ILLINOIS ADMINISTRATIVE CODE
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